

SENATE—Wednesday, June 15, 1994

(Legislative day of Tuesday, June 7, 1994)

The Senate met at 9:15 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 Chaplain of the Senate, the Reverend Dr. Richard C. Halverson, will lead the Senate in prayer.

PRAYER

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

Let us pray:

He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?—Micah 6:8.

Eternal God, righteous and just in all Thy ways, help Thy servants, whom Thou hast ordained to leadership in the Nation, to take seriously the word of the prophet Micah. Grant them the wisdom, the determination, and the courage to do justly, love mercy, and walk humbly before the Almighty.

In their deliberations and decisions, liberate them from the pressures which tempt them to do less than God requires. Give them grace to reject the temptation to depart from the Divine standards. Encourage them in the conviction that what is right with God is certain to be right with the Nation.

In the name of Jesus and for His glory we pray. Amen.

RESERVATION OF LEADER TIME

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

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 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Alaska [Mr. MURKOWSKI] is recognized to speak for 10 minutes, under the order previously entered.

BREAST AND CERVICAL CANCER SCREENING

Mr. MURKOWSKI. Good morning, Mr. President. I wish you and all of my colleagues a very good day.

Let me share with you a sense-of-the-Senate resolution I introduced on May

25, supporting the ability of women to receive and physicians to provide appropriate breast cancer and cervical cancer screening under health care reform.

Mr. President, this resolution simply states that any comprehensive health care reform measures passed by the Senate shall not establish artificial limits on early detection and preventative screening for breast and cervical cancer. Rather, screening should be provided in a manner consistent with sound scientific research, allowing for a physician's discretion.

Mr. President, every year 45,500 women are diagnosed with cervical and uterine cancers, and approximately 10,000 die from these diseases. Breast cancer afflicts even greater numbers of women. Each year 183,000 women are diagnosed with breast cancer and 46,000 die from it.

One in eight women will develop breast cancer in her lifetime, and it is now the leading cause of death in women between the ages of 35 and 54.

In my State of Alaska, we have a high incidence of these diseases. Breast cancer is the No. 1 cause of death in Alaskan women, while cancer ranked as the second leading cause of death in Alaskan men and second for both sexes nationally. In 1986 and 1987, Alaska was ranked 23d among all States in breast cancer mortality, and when analyzed by race, we tied with New York for the second highest rate of breast cancer mortality in Caucasian women.

While cervical cancer deaths have declined overall in the past 40 years, during the decade of 1980 to 1989, the rate of cervical cancer for Native Alaskan women was four times greater than the non-Native rate.

The American College of Obstetrics and Gynecology, the American Cancer Society, and other notable physician and scientific organizations, recommend annual Pap smears and pelvic examinations for women who are 18 years of age and older.

Further, Pap smears are inexpensive tests, particularly when compared with other cancer screening measures. When there are many cancers that physicians are not capable of detecting except through the most expensive tests, it seems appropriate that Congress would support, not limit, preventative screening measures, like Pap smears, that provide the most effective means of early detection.

I, and many of my colleagues, recently became concerned with the National Cancer Institute's change in po-

sition regarding mammography screening for women between the ages of 40 and 49. The National Cancer Institute no longer recommends that baseline mammography occur at age 40. Instead they believe age 50 is adequate. Yet, just last month, a study conducted at Case Western Reserve University found that younger breast cancer victims tend to have more aggressive and deadly forms of cancer. Those under the age of 45 were determined to have more rapid recurrences of the disease and shorter survival time. While there is some controversy surrounding age appropriate screening, what is not disputed is that mammograms are the only method available to detect breast cancer at the earliest stages when it is most curable and that mammography has been proven to reduce mortality for women when breast cancer occurs.

Mr. President, of course, these are not partisan issues. We may have our differences regarding the managing and financing of health care reform, but I think we all endorse accessible and affordable health care that preserves the patient's choice and the physician's discretion. For years, Members of both parties have supported increased funding for research, education, and preventative screening services for breast cancer and cervical cancer. My wife Nancy was the founding director of the Breast Cancer Detection Center in Fairbanks, AK, back in 1974, and both she and I continue to support this center's mission to provide free mammograms to low-income and underserved women in the interior part of Alaska. Our commitment to maintaining these services and expanding them to more remote areas of our State remains strong and is our objective.

As Congress pursues reforms on the health care system, it is of the utmost importance that we ensure appropriate screening for breast and cervical cancers and make it available to women when they want them or when their doctor determines they may need them.

So the purpose of this resolution, Mr. President, is not to mandate one service at the expense of another, but to simply express the sense of the Senate that it is not the role of the Federal Government to place artificial limitations on these services, particularly when physicians and scientific organizations do not concur with these limitations.

Again, the resolution simply states that any comprehensive health care reform measure passed by the Senate not

establish artificial limits on early detection and preventive screening for breast and cervical cancers. Rather, screening should be provided in a manner consistent with sound scientific research, allowing for physician discretion.

I am pleased to include Senators COCHRAN, LUGAR, and STEVENS among the original cosponsors of this resolution.

TAXES AND THE URUGUAY ROUND TRADE AGREEMENT

Mr. MURKOWSKI. Mr. President, recently, the Wall Street Journal reported that the administration is considering proposing a series of tax increases to pay for the lost tariff revenues that will result as a consequence of the implementation of the Uruguay round GATT trade agreement.

According to the Journal, the following tax increases may soon be on the table: \$4.8 billion from a 4-percent tax on radio and television stations and others for the use of the radio spectrum; \$1.5 billion by reauthorizing the Superfund hazardous waste cleanup tax and using part of a surplus that has accumulated; \$1.3 billion from changing the inventory accounting rules for retailers; \$600 million from a gambling tax on gambling that exempts State lotteries; \$500 million from taxing employer-provided parking, and we have had some experience with this in this body; \$500 million from requiring companies that take advantage of the possession tax credit—section 936—to file quarterly taxes; and \$200 million from taxing more chemicals as ozone depleting chemicals in that category.

In addition to the \$9.4 billion in tax increases that will be needed over the next 5 years, the administration is considering cutting agricultural export subsidies by \$1.6 billion and farm subsidy payments by \$1.5 billion. It should be noted that these spending cuts are effectively mandated by the terms of the GATT agreement.

So what we have, Mr. President, really, is the specter of nearly \$10 billion in tax increases that will be necessary to implement the GATT agreement. I question the wisdom of this approach.

In a letter President Clinton sent me on May 3, he stated: "This agreement will create hundreds of thousands of American jobs and new economic opportunities at home." According to a booklet the President included with his letter, the Uruguay round, when fully implemented, should add \$100 to \$200 billion to the U.S. gross domestic product annually. In addition, the Commerce Department's International Trade Administration recently estimated that over the next 10 years, the output of goods and services in the United States will increase by more than \$1 trillion as a result of the GATT agreement.

Mr. President, there is little doubt in this Senator's mind that the GATT agreement will significantly benefit this Nation's economy because it will reduce barriers blocking our access to world markets and create a more fair and comprehensive set of world trade rules. If the administration is correct in its estimate that the GATT agreement will increase GDP annually by \$100 billion, it is almost a certainty that increased Federal revenues from income and corporate taxes will far exceed the revenue loss that will result from the reduction in tariffs.

Currently, individual income and corporate income taxes are slightly more than 10 percent of GDP. This percentage is projected to remain fairly steady at 10.3 percent of GDP over the next 5 years. If, in the first few years of the phase-in of the GATT agreement, our added GDP is merely \$20 or \$25 billion a year—not the \$100 to \$200 billion that the administration estimates after full implementation—individual and corporate tax revenues will easily offset the revenues lost by tariff cuts.

If we are to believe the administration's \$100 billion annual GDP gain, corporate and individual income tax revenues would rise by more than \$10 billion a year.

The reason the administration is scrambling to find ways to pay for the GATT agreement is because our budget pay-as-you-go rules require offsets when legislation reduces Federal revenues. Yet, I believe that we should not have to find new sources of revenue to pay for the GATT agreement because I believe it will bring in far more in income and corporate income taxes than will be lost through tariff cuts. If not, something is wrong and perhaps we better stop spending and cut spending in specific areas.

I hope that when the Congressional Budget Office estimates the effect that the GATT will have on Federal revenues, its analysis will reflect the economic growth that will surely result from implementation of the agreement. Narrow economic analyses that ignore such feedback to the economy should not be used as a basis to require unwarranted tax increases.

Clearly, I think all Americans expect that the increased trade resulting from GATT should be a sufficient stimulus to the economy which should more than make up for the cost of the lost revenues.

I thank the Chair, and I yield the floor.

The PRESIDENT pro tempore. The Senator from New Jersey, under the order entered previously, is recognized now to speak for up to 20 minutes.

Mr. BRADLEY. I thank the Chair.

RACE FOR THE CURE OF BREAST CANCER

Mr. BRADLEY. Mr. President, breast cancer steals our wives, our mothers,

our daughters, our coworkers, and our friends. For those who it does not kill, it changes forever.

I speak as the spouse of a wife who has experienced mastectomy and chemotherapy regimens. Once a family has brushed up against breast cancer, it is never quite the same. It is changed forever.

During 1994, an estimated 182,000 new cases of breast cancer will be detected in women. In New Jersey an estimated 6,800 cases will be detected. And this year 46,000 women will die because of breast cancer. And in my home State, approximately 1,700 women this year will die from breast cancer.

The 5-year survival rate—which includes all women living 5 years after diagnosis, whether the patient is in remission, disease free, or under treatment—for localized breast cancer is 93 percent. If the cancer has spread—usually meaning involvement with lymph nodes—at the time of diagnosis, the 5-year survival rate is only 72 percent, and for persons with distant metastases—meaning cancer has spread to other parts of the body—at the time of diagnosis, the 5 year survival rate is a terrifying 18 percent.

As a nation, we cannot afford to wait any longer to lead the battle against the primary killer of women ages 35 to 54. For in the year 2000, over half of the women in the United States will be in this age group. The Federal Government has the power and the responsibility to allocate the necessary resources to prevent and treat breast cancer. We have begun to make significant strides. Federal funding for breast cancer research has quadrupled since 1990. However, the \$410 million we will spend on research pales in comparison with the billions of dollars of medical costs and personal anguish and suffering breast cancer will cause our Nation and millions of its citizens this year.

I am deeply committed to finding a cure for breast cancer. We cannot, however, simply sit back and wait for the cure. Each and everyone of us must help in the fight against breast cancer. One way to help in this fight is to participate in the fifth annual National Race for the Cure this Saturday, June 18. The purposes of the Race for the Cure is to raise both money and public awareness about early detection and mammograms so as to increase the survival rate for breast cancer victims. Since the first race in 1990, this annual event has raised close to \$2.5 million for breast cancer research, screening mammograms for low-income women; and public education programs.

The Race for the Cure is a unique opportunity to bring together women and their families and friends who have been affected by breast cancer. In the words of Ellen Barnett, founder of the Advocacy Committee for Breast Cancer survivors,

Women who live with breast cancer every day of their lives know better than anyone

the importance of education, research and effective means of early diagnosis and treatment. Many breast cancer survivors live silently with their concerns, without the support and camaraderie available from being with other women with similar concerns. The public image of thousands of women survivors running together tells all women that they are not alone and they need not endure the trauma of the disease in silence.

I will join the estimated 20,000 runners, walkers, and wheelchair participants expected this year. I will join my family—my wife will participate—and my staff, those who choose to participate. I will join the survivors of breast cancer wearing pink visors. I will join the walkers and runners with pictures of loved ones they have lost to breast cancer pinned to their chests. And I will join those who have the names of survivors written on their backs to participate in the Race for the Cure of breast cancer that takes place this Saturday.

Mr. President, I encourage all of my colleagues in the Senate to enter the race. So far, nine Senators have said they will race for the cure. The Vice President will race for the cure. I urge all of them and their staffs to participate in an effort to help to find a cure for breast cancer. With all of our help and the help of the American people, this race will not only be the best ever, but it will also put us on the right track to finding a cure.

I yield the floor.

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

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Let me wish the President pro tempore a good morning.

The PRESIDENT pro tempore. The Senator from South Dakota is recognized for not to exceed 5 minutes.

RACE FOR THE CURE

Mr. DASCHLE. Mr. President, this weekend marks the 5th year that Washingtonians will participate in the Race for the Cure. I am informed that sponsors are expecting as many as 20,000 participants to commemorate this year's anniversary of Washington's first Race for the Cure to combat breast cancer.

In the past, the Race for the Cure has helped raise critical funding for medical research and for mammograms. Much of this money remains in the local area to support research institutions and provide mammograms for women who could not otherwise afford them.

The Race for the Cure is also an exceptional tool for raising public aware-

ness about breast cancer and of alerting women to the importance of early detection measures.

Many of Saturday's race participants will actually be breast cancer survivors. Many more will be the spouses, the siblings, or the friends of both breast cancer survivors and, I am sad to say, the many women who have not survived their battle with this terrible disease. It is for all these individuals that we race on Saturday, and it is for them that we continue our efforts to support research and public awareness, in the hope that one day all women who face this disease will be survivors.

Although we have made significant strides in combating breast cancer, we are far from the finish line. Medical research into the causes, cure, and prevention of breast cancer is essential to this effort. I am pleased that President Clinton has expressed his commitment in this regard by including in his budget proposal a 4.7-percent increase for biomedical and behavioral research to be conducted by the National Institutes of Health. This funding will be targeted in part toward women's health and especially toward breast cancer research.

Public awareness and prevention efforts are also critical components of our battle against breast cancer. Today doctors strongly recommend monthly self-examinations to check for the early warning signs of breast cancer, but sometimes these early warning signs are not early enough. That is why it is so important for women at risk to have mammograms. A portion of the proceeds from the race this Saturday will be devoted to providing mammograms for women who would otherwise not be able to obtain them, and I am hopeful that one day we will be able to detect all breast cancer at an early stage.

But I am even more hopeful, however, that we will someday have a cure. Over 70 percent of all women who have breast cancer do not exhibit any of the known risk factors. This year, 182,000 women will be diagnosed with breast cancer and, unfortunately, 46,000 women will die from this terrible disease. So we must find a cure.

Sometimes the most effective movements are born of tragedy. The Race for the Cure is no exception. This race is a tribute to all women who have not survived their battle with breast cancer. It is in their memory that we continue our efforts to increase support for medical research and to raise public awareness about this important issue.

This race is also a tribute to all those women who are surviving their battle with breast cancer. It is in their honor that we stand with them, walk with them, and run with them—it is in respect that we race with them—to find a cure for breast cancer.

I yield the floor.

The PRESIDENT pro tempore. Under the order previously entered, the Sen-

ator from Vermont [Mr. LEAHY] is recognized to speak for up to 15 minutes.

THE RACE FOR THE CURE

Mr. LEAHY. Mr. President, I appreciate the comments made by many of my colleagues on the Race for the Cure here this morning. Both my wife and I will take part in that this weekend. I think it is something extremely important.

LANDMINES

Mr. LEAHY. Mr. President, I want the Senate to know about a hearing I held on May 13. I held it under the auspices of the Senate Appropriations Committee, chaired by the distinguished President pro tempore, and in the Foreign Operations Subcommittee. We talked about landmines. In fact, this hearing was the first hearing on the problem of landmines in the Congress.

Among the witnesses was an American from Boulder, CO, named Ken Rutherford. Last year, he was working for the International Rescue Committee in Somalia. Ken was in Somalia on an errand of mercy. He was helping the Somali people rebuild their country after years of devastating war. And, on December 16, just a short while before Christmas, he was driving along a road, a road that looked safe, when the vehicle he was in exploded. It exploded from a landmine that was on that road. Ken's right foot was torn off. Part of his leg had to be amputated. In fact, his left foot was so badly damaged that it was saved only as a result of seven surgical operations.

Losing a foot is a horrifying experience for anybody. In his testimony, Ken said that in many ways he was lucky. He had a radio. He could call for help. He was airlifted to a hospital. He received excellent medical treatment. Insurance is going to cover about a quarter of a million dollars in the bills from this one incident.

Ken would agree that the hundreds of thousands of people who have had a leg or an arm blown off by landmines are rarely so lucky. Many of them bleed to death on the spot—especially, and tragically, more and more, they are children whose bodies are less able to survive the blast, because landmines are being used more and more as a weapon of terror against civilian populations.

Others who are injured by landmines are faced with trying to survive in places like Cambodia, Angola, and Nicaragua, where physical labor is a way of life. There is no welfare. There are no disability payments. Certainly, there is no insurance to pay the medical bills. In fact, oftentimes it is a society where the disabled are treated with loathing.

Landmines kill or maim over 1,200 people every single month of the year.

Most of the victims are innocent civilians. If a Somali had stepped on the mine that destroyed Ken Rutherford's leg, he or she would almost certainly have died.

Think of the number—1,200 killed or maimed each month. Patrick Blagden, a retired British general who heads the United Nations demining program, testified that every 15 minutes he hits his desk and thinks, "There goes another one."

Mr. President, I want to quote from Ken Rutherford's testimony, and let me tell you, when he said this, there was dead silence in that hearing room. He said:

I looked down at my feet. I saw a white bone sticking out where my right foot used to be. My other foot was still attached. I had lost a toe and the top part of my foot, and like an x-ray, I could see the bones going to the remaining toes.

I am lucky to be an American. To have the best medical care, therapy and prosthetics available. What about the Somalis who are hurt by landmines? Who will help them?

When I was helping the Somalis, I made a point to say that the money came from the American people. In the future, I would also like to say that we—

Americans

were instrumental in setting the standard in the fight against landmines.

Ken went on to tell us of sitting there with his foot in his hand trying to reattach it, and of the shock, the loss of blood and the pain. He had no warning there was a landmine or who put it there. In fact, to this day, he does not know who put the landmine there. But, really, what difference does it make? It is the horrible result that matters. Landmines are strewn by the thousands. They speak of sowing landmines as though it were a farmer in my own State of Vermont sowing a crop to feed people. They sow landmines by the thousands that kill and maim indiscriminately.

Mr. President, there are 100 million active landmines in over 60 countries—100 million landmines waiting to explode from the pressure of a footstep. What madness is this? Last year, the United Nations cleared a total of 75,000 landmines, at a cost of tens of millions of dollars. It also cost the lives of nearly 100 deminers who died in clearing those 75,000 landmines. Tens of millions of dollars, 100 people dead, 75,000 cleared, but in that same period, in the former Yugoslavia and Cambodia alone, over 2 million new mines were laid—over 2 million. It is like Sisyphus trying to stop this: We get rid of 75,000 and just two countries alone lay down 2 million more.

I have rarely met anyone as courageous and eloquent as Ken Rutherford. He suffered terrible injuries. He is going to live with these injuries for the rest of his life. But rather than lament his fate or harbor regrets, he asked us to act to save others from suffering the same fate.

At that hearing, we also heard testimony from the U.N. High Commissioner for Refugees; the head of UNICEF who testified that more children, far more children than soldiers, are killed and maimed by mines—children who pick them up and think they are a toy and then have their hand blown off or their leg or their arm or their face, literally their face.

We heard from an American veteran who lost his arm from an American landmine in Vietnam. I remember later watching part of the hearing on television when he said even if you survive, it stays with you forever, and then the camera moved down to the hook where his arm used to be.

Statements were submitted by U.N. Secretary General Boutros Boutros-Ghali, by former President Jimmy Carter, and by Elizabeth Dole, the president of the American Red Cross. Each one of them called for an international ban on antipersonnel landmines.

We cannot solve this problem by ourselves, Mr. President. But without U.S. leadership, we are going to continue to watch this slow-motion slaughter.

Last year, 100 U.S. Senators—Republicans and Democrats, conservatives and liberals—voted for my amendment for a moratorium on exports of antipersonnel landmines from the United States. I want to tell my colleagues in this body, all of whom on this floor voted for that, that we set a standard, and eight countries followed our lead and stopped exports: Germany, France, Poland, The Netherlands, South Africa, Belgium, Slovakia, and Greece. Four more—Canada, Taiwan, Peru, and the Czech Republic—are expected to soon, following the moral leadership of the United States. And because of our leadership, negotiations have started in Geneva to seek international limits on the production and use of these weapons.

This next year of negotiations is a crucial opportunity for the United States to show leadership. Over 50 countries produce landmines, some 10 million new mines every year. I will soon introduce legislation imposing a 1-year moratorium on the production of antipersonnel landmines by the United States and to authorize funds for technical assistance and equipment for mine clearing. It is far less than a total ban many are calling for. Nor does it seek to dictate what U.S. policy should be. That is going to be determined by our negotiators in Geneva. But my legislation will put the United States in a strong position to press other countries to follow our example. That is the only way we are ever going to be able to deal with a problem which the State Department has said may be the most toxic and widespread pollution facing mankind.

Mr. President, I ask unanimous consent that Ken Rutherford's testimony be printed in the RECORD.

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

GLOBAL LAND MINE CRISIS

(Testimony of Ken Rutherford, International Rescue Committee, before the Foreign Operations Subcommittee, May 13, 1994)

My name is Ken Rutherford. I am employed by the International Rescue Committee (IRC). My hometown is Boulder, Colorado. I am an amputee as a result of a land mine accident in Somalia.

First, I would like to thank you for your support for Operation Restore Hope. It did just that and more. It not only restored the hope of the Somali people, but also saved tens of thousands of their lives. For that many will be eternally grateful. No other country in the world's history has ever attempted such a humanitarian operation.

Second, I gladly accept your invitation to testify before you. I hope that I can accurately reflect the pain and suffering of tens of thousands of land mine victims, both dead and alive, around the world. Today, I will be expressing to you a real life land mine nightmare. I feel privileged to have this opportunity because I'm an American and alive. Unfortunately, all other Americans who hit land mines in Somalia are no longer with us.

You know the statistics. You know the facts. How long does the parade of victims have to be? Please help make the world safer for all of us. I hope that my loss prevents a similar story.

Last December 16th, my life was changed forever. We had received over 80 donkey cart applications at the Lugh credit union. We wanted to support the donkey cart operations since that is the main water supply. By funding these operations we hoped to reduce the price of water so that the recently returned refugees and poor would be able to afford it. The day before we had posted a notice in the town for all donkey cart applicants to come to the credit union at 8 a.m. the next morning, the purpose being that we wanted to match each application with the applicant and donkey cart.

The applicants came in slowly. The staff recommended that we wait longer since we would be causing more problems for ourselves by not allowing enough time for the other donkey cart owners to appear. To make good use of this down time, we decided to conduct site visits to the four approved lime producers whose manufacturing locations were several miles outside the town. The applicants got in the land rover back seat, while the union manager and Abdulahi Farah Ali got in the far rear seats. I sat in the front seat between my IRC driver and Duale, an IRC colleague.

About 10 minutes into our excursion, the land rover lurched forward a little, and the inside filled with dust. I slowly looked at Duale, whose face was covered with dust, then down to my feet. I saw a white bone sticking out where my right foot used to be. At first, I wondered if that was my bone or Duale's. It was mine.

My first instinct was to get out of the land rover. But, my lower legs were not working. I grabbed the steering wheel to pull myself out of the car hitting the ground with my back. The radio landed several feet from me.

Fortunately, before getting in the land rover at the credit union, I had attached my radio to my belt, rather than the usual practice of carrying it in my book-bag at the base of my feet.

I crawled for the radio, whereupon Abdulahi handed it to me. I said, "Kilo

Romeo for Kilo Tango" (Kilo Romeo was my call sign, while Kilo Tango is the call sign for Ken Turk, IRC Lugh Team Leader) "I've run over a land mine. I'm bleeding. I'm "O" positive. Send for an airplane."

I crawled the few feet back to the car and used my arms to place my legs on the seat. Abdulahi adjusted my legs on the seat then tied tourniquets around both my ankles. A bone was sticking out where my right foot used to be. The actual foot itself was hanging by stretched skin toward my knee. Twice I did a partial situp so that I could reach up and hit the bottom of my foot with the back of my hand hoping that it would flip up and over onto the protruding bone. It kept on falling back down.

My left foot was still attached. I had lost the fourth toe and top part of my foot. Like an X-ray, I could see the bones going to the remaining toes.

Abdulahi, unhurt, stayed with me the whole time. At the time I wasn't feeling any pain, just uncomfortable. I knew that I was in a serious accident and that my right foot was gone forever.

Up to this point I never thought about dying, but I was thinking what a blessed life that I've had. Great parents. The best of friends. The realization of a dream that I did the things that I wanted to do. And that even what I was doing in Somalia was a dream. How many people have the opportunity to do what they've wanted to do since being a kid? What could be a better feeling than helping and assisting people start their lives again after a civil war? I enjoyed having the opportunity to physically visit each applicant's project site, and help them. Some days I couldn't believe that I was getting paid for what I was doing.

Soon I spit up blood, and then I thought, due to possible internal injuries, I could be dying, and that every breath I took could be my last. The only sad thought I had was that I wouldn't be able to marry Kim, my fiancée of two months. That we wouldn't have children, whom, I believe and hope, would make a positive contribution to this world. I then resolved in myself that if I could pace my strength, energy and mind until I reached medical care, then I would live. I started breathing slowly, and calming myself down.

I looked up at Abdulahi and my other IRC Somali staff and said that I had enjoyed working with them and that we did our best.

Help arrived 15-20 minutes later. The first "rescuer" down the ridge was Ken Turk. I asked him if he could put my right foot back on. I meant it in a humorous way because I already realized that it would be nearly impossible to have a normal foot again, and that it hurt too much to cry.

He and the Somali rescuers picked me up in a cradle position and, then, placed me in the back of a pick up truck with my head on the lap of an Islamic Fundamentalist soldier. He held my head and his machine gun at the same time. My left hand was held by another soldier sitting on the side of the pick up truck with both of us squeezing each other's hands. Ken was trying to keep my right foot on the leg while trying to maintain his balance in the bouncing truck.

I remember thinking how great it was that Somali Islamic Fundamentalists were trying to save my life. Only several hundred miles away, in Mogadishu, they were trying to kill Americans. Here they were going over the same road that I had hit a land mine on to get me to the hospital.

Once in the truck, the pain set in fast. The hospital room was full of Somali medical personnel and Tamera Morgan, an American

nurse with extensive trauma experience. My forehead was being pressed down, and Somali men were holding down my arms in a cross position to keep me from moving too much. I kept struggling to deal with the pain and to try and raise myself up so that I could look at my mutilated feet. I couldn't believe that they were so destroyed.

About 30 minutes later I was taken back out to where the pick up truck had remained during my time in the hospital. Several men transferred me from the table to the truck. Before the transfer I could feel the large numbers of people that had crowded into the hospital courtyard and beyond. I told myself not to make a face of agony, pain, fear, or suffering, but to present an appearance that everything was OK—no problems. I didn't want them to think that I was just another American or international relief worker leaving out of fear or warning.

Before the accident I wanted to prove that Americans and Somalis could work, productively and cooperatively, together to provide many with a new start in life, and that the events in Mogadishu between Americans and Somalis have no influence on our work. I believed that it was important for me and other international relief workers, primarily Americans, to show that we were there to work shoulder to shoulder for long term and sustainable development.

Lying in the back of the pick up, I remember Somalis touching my legs and arms saying "sorry." I thought to myself "who is going to help these people? Who is going to continue the credit union work here? Is this the end? John Irons, my lone American IRC counterpart, can't do it all by himself.

During the flight to Nairobi, I almost died. To keep me alive both Tamera and a French doctor gave me blood from their own bodies to mine by direct transfusions. I only remember moaning and mumbling "Oh my god" so much from the pain that I thought the pilot must hate me since I was probably giving him headaches.

I started begging to save my right leg, knowing very well that it was gone but trying to protect my left leg. I figured that if I let my right leg go easily, then it would be much easier for them to cut off my left. I was twisting and struggling from the pain. The hospital staff then strapped both my arms stretched out to each side. The last thing I remember before the operation was a nurse apologizing as he cut away my maroon T-shirt—the one that I wore at the Somali going away party in Colorado that my family and friends had given me before my departure five months earlier.

I woke up with the doctor's hands holding down my shoulder explaining that they had to cut off my right leg to save my life. I asked him if I still had my left. When he said yes I started saying the first of my many thank yous to him and the nurses.

Before my departure, the nurse wheeled Dulae in. It was the first time that we had seen each other, at least consciously, since the accident. I stretched my left arm towards him for I couldn't roll over to give him my right. He took my hand, and we held each other's hands.

What I remember most about my post-operation was that whenever I woke up, there were IRC personnel by my bedside offering encouragement and support.

I was flown to Geneva on an SOS evacuation flight. In the plane, I was laid on a stretcher with sheets covered by a belt. Every three hours I was allowed a morphine shot. That last hour went by so slowly. The pain was incredible.

We stopped to refuel in Egypt, and I was looking out the plane window at some Egyptian soldiers. I was thinking "What am I doing? I'm on a plane in Egypt; I've lost my right leg; my left leg is in jeopardy * * * and yesterday I was working and fine. Our lives can change in a split second—anybody's."

The arrival in Geneva was at night. Out of my small window I saw Kim, my father, and Steve Richards, the IRC Executive Vice President, plus airport security guards and ambulance personnel. Once the door opened, Kim rushed onto the plane. As I saw her coming in the hatch, I took off the oxygen mask, then we hugged.

I was immediately taken in the ambulance to the hospital. My first memories of the hospital were getting X-rays of my foot, and then being put under. We didn't know if I would come out with one foot or not. This was the first of three operations in five nights in Geneva to save my left foot.

For the next five days, I was in tremendous pain and agony. My father, Kim, and Steve Richards, would visit several times each day. Yet, I was so tired, and trying to cover up the pain that I was feeling. Moans would unconsciously come out of me. I couldn't control them.

On December 22, 1993, I was flown to Denver, Colorado, then transferred by ambulance to the Institute for Limb Preservation at Presbyterian/St. Lukes Hospital. After reviewing X-rays of my foot, and the actual foot itself, the doctors were not optimistic. There was an 80 percent chance that they would cut off my foot, or that if they saved it, it would be so nonfunctional that I would request that they cut it off. One doctor said that it was the worst foot that he had ever seen still attached to a human body.

Over the next six days I had three more operations. The last one lasting 12 hours. The doctors had used my stomach muscle to replace the lost foot tissue. They sewed the blood vessels together. They also moved the pinky toe to the place of my missing fourth toe.

Thus far, I had been in four hospitals in four countries in one week. Within 12 days in three countries, I had had my right leg amputated and seven operations on my left foot.

I was transferred to my fifth hospital, Boulder Community Hospital Mapleton Center in mid-February. I remained there for three weeks. Since that time I've continued to visit Mapleton Center three to four times a week as a physical therapy outpatient. I am learning how to walk, move my foot, care for my stump, and get my body into shape. Initially, it took two physical therapists 15 minutes to stretch my legs since they were tight from being in a bed and in a wheelchair for so long. Now we work on strengthening the foot, massaging to reduce swelling, and working the toes. To date I can only move two of the remaining four. I also work with a therapist to strengthen my spine and torso to prepare me for walking. Recently, I've begun physical therapy in the swimming pool.

The doctors state that there is no question that I will require further operations. I broke, smashed, or lost 25 of the 26 bones in the foot. They would like to try to fill in the gaps and reset some of the bones. Additionally, the plastic surgeon would like possibly to reshape my foot, especially where the stomach flap is located. They say that I will have pain the rest of my life. To what level they do not know yet.

The good news is that I may be able to keep my foot. That I will have it the rest of

my life. I will no longer be able to run or jump, but I will be able to walk, play golf, and hike eventually.

But the point that I would like to make today is what about the other land mine victims? I am so lucky. I am lucky to be an American. To have the best medical care, therapy, and prosthetics available. Thus far, medical care costs are in the neighborhood of \$250,000. What about the Somalis who are hurt by land mines? Who is going to help them? Who is going to pay for their care and therapy? There are thousands around the world in places where having one's legs and arms are key to economic survival. They are the farmers, herders, traders, merchants, who need their limbs to work. These people do not have access to any medical facilities, let alone the quality of medical care that we have here.

I was able to contact help by my hand held radio. The IRC had the organizational capabilities to get me evacuated to receive excellent medical treatment. Their support has been instrumental in my recovery. Most do not have such blessings. As you have learned, the medical consequences of my injuries requires prompt and repeated surgical care, not so readily available for civilians in the developing world.

The IRC has implemented land mine awareness programs in Thailand, Malawi, and Pakistan. Its purpose was to assist refugees in protecting themselves from land mine risks. However, it is clear, that the resources devoted to promote land mine awareness and demining programs are not sufficient to keep pace with the present deployment rate.

I make my living by using my head and not by my feet. My goals have always required the use of my head. I don't need my feet to make a living. What about the other land mine victims who do? With deaths or injuries of bread winners, their families are usually left destitute. Unfortunately, as you have heard today, land mines are not designed to target discriminately. In most cases, the victims are civilians.

Article 3(2) of the Land Mines Protocol prohibits the direct use of mines against civilians. The 1977 Additional Protocol I, article 50 states a "civilian is anyone who is not a member of the armed forces or an organized armed group of a party to the conflict." I have never been a member of the military or an armed group. Yet, unfortunately, due to the indiscriminate nature of land mines, this article of the Land Mines Protocol is violated on a regular basis. Thus, I received no protection or consideration.

The Protocol goes on to prohibit in Article 3(3) the indiscriminate use of land mines. This is also violated regularly. For example, I arrived in the Lugh area 18 months after the hostilities in the area had ended. Yet now, as evidenced by my accident, land mines remain even though they have outlasted their military functions.

It is obvious that the provisions of the Land Mines Protocol are not adhered to seriously. Only the institution of a complete prohibition can be effective. Thankfully, the United States, led by the strength and tenacity of Senator Leahy and others, are taking a leadership role in this area. I urge you to continue your good works.

From the moment my vehicle hit the land mine, I found myself in a position that is not familiar to me in my role as a relief worker. I had become a victim.

Like so many others who have been victimized, I found myself questioning. But, I have never been bitter or depressed about my

condition. On the contrary, I am grateful to have had the opportunity to assist so many people to help start their lives again after the civil war. I chose to do what I loved: to assist refugees in getting on their feet again.

When processing and disbursing the loans to Somalis to assist them with their lives, I made it a point to say that may money came from the people of the United States of America. In the future, I would also like to say that we were instrumental in setting the standard in the fight against land mines.

Land mines are used as a destabilization weapon by mining areas such as agricultural fields and trading routes, making them economically unproductive for future generations. This leads to populations being permanently displaced, economic devastation, and political turmoil, all contrary to U.S. strategic foreign policy objectives.

Land mines maim and kill relief workers and their constituents all too frequently—in fact at least 1,200 people per month. The U.S. State Department estimates that there are some 100 million unexploded land mines in over 60 countries. Millions more are stockpiled in warehouses, waiting to be deployed. The State Department also emphasizes that land mines may be the most toxic and widespread pollution facing mankind.

In closing, I would like to say that there is something that you can do. Many have spoken on the horrors of land mines to civilian communities. Now it is for you to continue to set an example to the world.

As an American, I feel that we should promote and support a complete international ban on the production, and export, and deployment of land mines. It is a tremendous opportunity to confirm our humanitarian principles and leadership in the world.

In the interim, a permanent ban on all United States land mine development, export, and production sets the standards for the behavior of nation states. It will help bring international attention to the land mine problem and stimulate activity toward a complete international ban.

Thank you.

Mr. LEAHY. Mr. President, I will, during the coming weeks and months, speak again on this issue. I feel so very strongly about it. I felt that way the first time I met a victim of a landmine, a little boy who lost his leg in the jungle of Honduras, who was forever doomed to live on the handouts of others.

I started, with the help of the distinguished Presiding Officer and my colleagues on the Appropriations Committee, and others, a war victims fund to aid these people worldwide. It has been used in over a dozen countries.

We are aiding the victims—building artificial arms or legs or wheelchairs, or teaching them to walk again or help those who have been blinded. But, Mr. President, how much more we could do if we stopped it from happening in the first place.

This is not a new problem. There are parts of Europe today where people cannot walk because of landmines from the Second World War. But in Third World nations where it can cost hundreds of dollars to remove one of these \$5 or \$10 mines in a country where the per capita income is only a couple of hundred dollars a year, you see what we face.

So, Mr. President, I will continue to speak on this, and I thank those Senators who have joined me in trying to stop it.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER [Mr. KOHL]. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes, and I be allowed to speak therein for that period of time.

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

CHILD PORNOGRAPHY

Mr. GRASSLEY. Mr. President, two branches of Government have now spoken: The Justice Department's view of child pornography is wrong.

Last November, this body voted 100 to 0—just think of that, 100 to zero—to repudiate the Reno Department of Justice's interpretation of the Child Protection Act. The House of Representatives by an overwhelming majority agreed this spring. Last week, a second branch of Government, the Judiciary, unanimously rejected the Government's position.

The case of United States versus Knox was before the Supreme Court when the Clinton administration's Department of Justice changed its mind about what the Child Protection Act outlaws. Through their own administrative action, the Solicitor General overturned consistent 8-year interpretations of previous Justice Department interpretations of the statute. For the first time, Solicitor General Days argued in a turnaround that illegal child pornography required nude depictions of children who themselves intended to act lasciviously. Under Mr. Days' interpretation, Knox, twice convicted, would go free.

When the Supreme Court heard the argument, they remanded the case to the Third Circuit for consideration of the new position presented by the Clinton administration. Forty Members of this body and 194 Members of the other body joined an amicus brief urging that Knox's conviction be affirmed notwithstanding the Justice Department's changed position in the litigation.

In its decision, the Court flatly rejected the arguments invented—I wish to emphasize, invented—by Solicitor General Days and his team. First, the Court ruled that nudity or discernable body parts are not required for materials to constitute child pornography. The videos the Government sought to declare legal were described by the Court as "clearly * * * designed to pander to pedophiles."

In light of the statutory language and the harms caused to children who are subjected to production of these materials, because in 1984, we sought to

protect the young children of America, the Court found that clothed genitals fall within the statute. And that is what Solicitor General Days was trying to have the Supreme Court say was not covered. The Government acknowledged that its proposed standard would protect boys more than girls. Obviously, Congress, in 1984, adopted no such standard, and we reaffirmed this in that 100 to 0 vote last year.

Second, the Court rejected the Government's argument that child pornography requires the child to act lasciviously. The Court held, correctly, that the statute requires that the point of view of the pedophile to whom these videos are directed be the decisive one. Again, that is entirely within congressional intent, I can say, as I was involved in the writing of that legislation in 1984.

A spokesman for Attorney General Reno admitted that the Court rejected the Department's arguments. It was a total defeat for the arguments of the Clinton Justice Department and the Solicitor General, a total defeat. They struck out completely. The spokesman indicated that the Department has made no decision regarding a position to take if Knox again appeals to the Supreme Court.

I have cosponsored a resolution with Senator ROTH and Senator HEFLIN calling on the Justice Department to argue that Knox's conviction be upheld when he again petitions the Supreme Court to review his case.

I hope that the Department has now learned a lesson—that these videos fall within the child pornography laws, and that a broad reading of those laws satisfies the Constitution. Congress has acted to prohibit child pornography to the fullest extent allowable under our Constitution. The Justice Department should and has a responsibility to enforce that congressional policy.

I am astonished that there would still be any question in the Justice Department whose side to take on this appeal. Certainly, an administration that would adhere to the position that has been so thoroughly discredited by two branches of Government, I would have to assume was on a crusade for smut.

HOUSE AND SENATE CRIME BILLS

Mr. GRASSLEY. Mr. President, I expect that conferees will begin to meet soon to reconcile the House and Senate crime bills. In the past, the Senate has passed good and tough anticrime legislation, only to discover that what emerges from conference is weak and unworthy of the previous support we have given the bill. As a conferee this year, I do want to set straight my objections to various provisions in the House bill that I hope will not appear in the conference report.

The Racial Justice Act is at the top of that list. The Racial Justice Act will

prevent the death penalty from being imposed without the imposition of racial quotas. The American Criminal Justice System is based on individual punishment. By contrast, the Racial Justice Act is premised on group rights and statistics. It is also premised on false notions about the way the death penalty is administered by our courts. We all support principles of non-discrimination in applying the death penalty. The Racial Justice Act has nothing to do with those concerns. Instead, it is a way to abolish the death penalty in practice. The Racial Justice Act would do permanent damage to the Criminal Justice System. If it appears in any form in the conference report, I will oppose that conference report.

The House crime bill also added \$10 billion in so-called crime prevention money. What it really did was fund all the social programs that have been on some people's wish lists for a decade. Spending money on infrastructure will not prevent crime. Nor will spending money on public works, lighting, self-esteem, and public transportation prevent crime. What passed the House is not the tough anticrime legislation the American people want and deserve. Spending money on these failed feel-good programs will not be tough and will not be smart.

There is nothing we can do to prevent crime more than building prisons to keep violent criminals off the street and to fund additional police.

If the crime conference report spends billions of dollars on pork barrel projects that have nothing to do with crime, I will not support the conference report. We have tried these kinds of programs before, going back to the Great Society days. These programs say it is society's fault that there is crime, not putting blame on the shoulders of the individual in America and making individuals responsible for their own actions.

We have been following the root cause theory since the 1960's, and we have had disastrous results from that philosophy. Crime rates rose as we stopped building prisons. They have stabilized as we have built more prisons. Unless the thugs are first removed from the crime-infested areas, social spending of the type contained in the House bill will be wasted.

We must do more to support law enforcement, and we must stop spending enormous sums on all sorts of projects that have nothing to do with controlling crime. The American people will be watching the actions of the conference committee, and they will be expecting a tough product from that conference.

I yield the floor.

I yield the remainder of my time.

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

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

MFN FOR RED CHINA: A TRAGIC MISTAKE

Mr. HELMS. Mr. President, President Clinton's decision to renew most-favored-nation trading status for Communist China is another tragic chapter in the President's foreign policy failures. Despite Red China's having deliberately flaunted the conditions laid out by Mr. Clinton himself for MFN renewal—through the May 1993 Executive order—the President is discarding what he once proclaimed to be steadfast principles. And he is doing it in a shameful kowtow to China's Communist emperors.

This latest foreign policy disaster should be no surprise. From the start, Mr. Clinton's China policy has been fraught with contradiction. As a candidate, Mr. Clinton viciously attacked George Bush for "coddling the dictators in Beijing" and publicly endorsed human rights conditionality for MFN. However, once in office, President Clinton preferred Mr. Bush's soft approach—and tried to adopt it in a very flawed way. Bill Clinton's attempt to reconcile his opposing positions has resulted in the worst possible outcome, today's ineffective policy of appeasement masquerading behind a human rights facade.

The basis of my criticism of Mr. Clinton is not partisan politics. I consistently and publicly expressed my disdain for President Bush's being soft on China. I voted to override the Bush veto of legislation I cosponsored—and Congress passed—conditioning China's MFN.

I therefore welcomed President Clinton's 1992 get-tough campaign rhetoric. It was a policy change long overdue. While I had hoped that nonproliferation and fair trade conditions also would be mandatory requirements for China's MFN renewal, I nonetheless supported President Clinton's Executive order which linked human rights progress to MFN as an encouraging first step in the right direction.

But, Mr. President, it is now clear that the Executive order turned out to be nothing but a bluff—and an amateurish one at that. By elevating human rights through this defective plan to the primary MFN renewal condition, all other concerns, including the equally important nonproliferation and unfair trade problems, have been cast aside receiving no attention at all. Assessing correctly from the beginning that despite all its human rights bluster the Clinton administration would not revoke MFN, China has balked at

improving human rights and has been let off the hook on every other issue thanks to the administration itself.

Mr. President, instead of recognizing this policy to be a failure, and changing course, the Clinton administration has turned to appeasement in a desperate attempt to get something—anything—from China. Knowing the administration needs some human rights gesture to justify MFN renewal, the Chinese have been able to extort—and get—whatever they want. The administration has succumbed almost daily to this blackmail. Oh, how the Chinese Communists must enjoy seeing the United States beg and grovel. How they must enjoy yanking the U.S. chain. It is humiliating.

Recognizing that the United States accounts for 40 percent of China's exports—96 percent of which are covered by preferential MFN tariffs—and that the United States provides Beijing with its only significant hard currency, MFN is a reward that the United States bestows upon China, not the other way around. How the Chinese must be relishing the irony of it all.

Mr. President, among some of the more blatant examples of appeasement, the administration has:

Weakened nonproliferation sanctions despite China's continued nuclear testing and lack of positive action on other nonproliferation concerns;

Failed to impose any penalties for China's gross violation of textile quotas;

Failed to even cite—let alone penalize—China for the piracy of intellectual property rights;

Failed to prosecute Chinese caught engaging in industrial espionage in the United States;

Upgraded military relations and offered Chinese military experts unprecedented access to America's most sensitive defense laboratories despite China's continued, aggressive military modernization and continued sale of weapons to brutal regimes like those in Burma and Iran;

Approved the transfer of new super computers and sensitive satellite launch technology that could be used to improve Red China's offensive, strategic nuclear missiles arsenal despite China's refusal to join the current nuclear testing moratorium or adhere to missile technology controls;

Sanctioned Taiwan—but not mainland China—for inadequate endangered species convention enforcement;

Insulted the democratically elected President of America's long-time friend and ally on Taiwan at the behest of the Communist Chinese ambassador in Washington;

And insulted the U.S. Congress—the elected representatives of the American people—in an effort to placate Beijing's dictators.

What has all of this gotten the United States? Nothing. Even on human

rights, the one issue on which the Clinton administration staked its entire policy, the result is failure.

The State Department's own 1993 human rights report chronicles abuse after abuse by Beijing. China's human rights record has deteriorated further with the arrest and disappearance of many formerly free dissidents. According to Human Rights Watch, while China has freed 25 political prisoners over the past year—something the State Department highlights, the Communists have turned around and arrested over 100 more. Where I come from, that is known as regression, not progress.

In Tibet, Chinese colonization and the methodical destruction of Tibet's distinct heritage continue at full speed. Even after the Dalai Lama met the Chinese precondition for talks, namely that the Tibetans would not raise the issue of independence, the Communists still refuse to negotiate.

Yet, despite the obvious lack of significant, overall progress as called for in the President's own executive order, China's MFN is being renewed.

Mr. President, the manner in which the administration has pandered to the Communist Chinese is embarrassing and degrading to the United States. We are not eunuchs required to kowtow to every demand of the Chinese emperor.

The ramifications of this debacle go way beyond the Great Wall. Why should North Korea take seriously our threats of sanctions should they continue to refuse inspections of their nuclear facilities? It's no wonder two-bit generals in Haiti laugh at us. American credibility is being lost and I fear that the cost President Clinton will incur to regain respect is the unnecessary loss of American lives in some ill-defined military (mis)-adventure somewhere.

It is time for President Clinton to learn from mistakes and craft a more effective policy that recognizes China as the tough, Communist competitor that it is. Instead of allowing the Chinese ambassador in Washington to dictate our China policy, Foggy Bottom ought to stand up and fight for American interests. No relationship is too sensitive or fragile to be a fair relationship.

Truly successful Sino-American relations must be based on respect. Mr. President, how can the United States effectively pressure the Chinese to address satisfactorily unfair trade, nonproliferation and human rights concerns if we succumb repeatedly to Chinese blackmail and make hollow threats, like MFN revocation, for which we have no intention of carrying out? China will only start treating American interests with respect when this administration begins to act in ways that command respect. Renewing MFN under today's hypocritical standards is a poor way to start commanding respect.

TRIBUTE TO MR. LEE FLEETWOOD POWELL

Mr. McCONNELL. Mr. President, I rise today to pay tribute to an outstanding Kentuckian, Mr. Lee Fleetwood Powell, who passed away April 6, 1994. Mr. Powell, a longtime resident of Paducah, KY, will long be remembered for his dedication to his community.

Mr. Powell's outstanding leadership qualities first became recognizable when he attended Abilene Christian University, where he played on the basketball team and served as captain of the 1932 football team. Throughout his life Mr. Powell continued to strongly support the university while pursuing a distinguished career with his family's business, Old Hickory Clay Co. of Paducah.

In 1963, Mr. Powell was named to the Abilene Christian College National Development Council and was honored as Outstanding Alumnus of the Year. He also served as president of the ACU Alumni Association, chairman of the ACU Advisory Board, and he received an honorary doctor of letters from the university in 1984. Two years later he was inducted into the Abilene Christian Athletic Hall of Fame. In 1993, following a gift from Mr. Powell to construct the 5,000 square-foot facility, the Lee Powell Fitness Center was dedicated.

Mr. Powell was also actively involved in athletics within the community. He served as a football and basketball coach in Texas and in Fulton, KY. Mr. Powell left coaching in 1935 when his father-in-law, Ralph Scott, asked him to take over Old Hickory Clay Co. After serving as president for a number of years, Mr. Powell sold the business to his children and grandchildren in 1988.

Mr. Powell gained respect in Paducah by offering his time and service to the community. He was appointed to the Paducah City School Board in 1939 and served on the board for 19 years, including 15 years as chairman. Mr. Powell was also active in the Paducah Chamber of Commerce, the Rotary Club, the Kentucky Council on Economic Education, and Lions Club, where he served as president. He was also a member of the Paducah Broadway Church of Christ, where he was an elder over 40 years and the church treasurer for 25 years.

Lee Fleetwood Powell was a man who strived to serve his community. He continuously offered his time and his resources, and his efforts have left a strong impression on the Paducah community. He was an outstanding leader, inspiration, and driving force in the Paducah economy and the community, and I commend him for his dedication and service.

THE DEATH OF MARY ELLEN MONRONEY

Mr. BOREN. Mr. President, in early May, the State of Oklahoma lost one of its finest citizens, and the U.S. Senate family lost one of its most beloved members with the death of Mary Ellen Monroney. For many of us from Oklahoma and indeed, for many Senators and their spouses, having Mary Ellen Monroney as a friend was like having a second mother in Washington.

She was the widow of the late Oklahoma Senator A.S. [Mike] Monroney who was for three decades an outstanding member of the Congress and the architect of the post World War II reform of this institution.

Mary Ellen Monroney was a remarkable person in her own right. She was a confidant and adviser to First Ladies, Presidents, foreign leaders, and diplomats. She set high standards for herself and never compromised them. She was full of courage, spirit, and determination. The trials of life never defeated her. Complete honesty was her trademark and to say that she was candid was an understatement. It is no wonder that young people especially were drawn to her and were inspired by her example, her standards, and her spunk. She was herself forever young, forever open to new ideas, forever curious and learning more each day.

I was deeply honored to be asked by her son, Mike Monroney, Jr., and her family to share a few words about her at a memorial service at the National Cathedral on May 10, 1994. Mr. President, I know that I speak for all Members of the Senate when I extend our sincere sympathy to the Monroney family and our gratitude for the friendship and life of Mary Ellen Monroney.

I ask unanimous consent that the text of my remarks at the memorial service be printed in the RECORD.

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

REMARKS OF SENATOR DAVID L. BOREN AT THE MEMORIAL SERVICE FOR MARY ELLEN MONRONEY, BETHLEHEM CHAPEL, WASHINGTON NATIONAL CATHEDRAL, MAY 10, 1994

We come together today to pay tribute to a truly remarkable person, Mary Ellen Monroney. We come to console each other especially Mike Jr., Michael, Erin, Alice, and Susanna, her son and grandchildren, all of whom she loved very much.

We will all miss her. To many of us, as DeVier Pierson told an audience in Oklahoma over the weekend, she was our second mother; our mother in Washington. We'll miss her terribly—her wit, her curiosity—her commentary on the world around us.

But, we also come today to celebrate. We know today that heaven is not a boring place with Mary Ellen there. We chuckle as we think that Our Heavenly Father had better not ask Mary Ellen's opinion on any subject if He isn't prepared to hear it straight out.

Recalling the special feature in the Readers' Digest, there are many who would say that "Mary Ellen was my most unforgettable character."

One of her closet friends, Mary Eddy Jones of Oklahoma City, said to me recently that Mary Ellen was teaching all of us how to die and she did by facing her last illness with courage, dignity, and incredible grace.

Above all, she taught us how to live. So many of us seem to keep waiting to live. We put it off. We plan to really live some time in the future. Mary Ellen always lived in the present. She found zest in every moment. She prepared for the future and she especially cared about young people, but she enjoyed the preparation itself.

Mary Ellen was adventuresome. I wasn't surprised to hear Michael tell the story of his grandmother's urging him to walk up the gangplank of a foreign ship to look around.

She was descended from pioneers who made the 1889 land run in Oklahoma. Mary Ellen had tremendous energy and a childlike curiosity about everything around her.

Who else would have taken an African safari at the age of 86?

Who else would have gotten a speeding ticket at age 85 for driving herself 90 miles per hour passing over the Italian Alps to visit her friend Lady Bird Johnson who is here with us this morning?

She lived an exciting life filled with the events of times. If she and her mother had not overstayed their time in Europe by shopping too long, she would have been a passenger on the fatal Titanic voyage on which she had a ticket. With Mary Ellen looking over his shoulder and giving him orders, the captain might never have hit the iceberg. She danced with Fred Astaire who complimented her as a dance partner. She was a frequent guest at the polo outings of Will Rogers. She was even offered a movie contract by Samuel Goldwyn. Hollywood would never have been the same had she accepted.

Mary Ellen had many wonderful qualities. She was determined. Having heard the former governor of New Hampshire, John Winant suggest to husband Mike that he should run for Congress, Mary Ellen didn't stop until he ran in spite of the fact that he had no intention of doing so. When he balked, she leaked his candidacy to the newspaper and got so many of his friends to ask him to become a candidate that he finally did so.

Her honesty was legendary. Senator Monroney once advised her merely to say "Indeed! Indeed!" when confronted with a controversial statement so that no one could quote her comment on either side of the issue. As we all know, Mary Ellen never said "Indeed! Indeed!" in her entire life.

Her openness was constantly refreshing. Once when she was in a dispute with a famous Washington hostess, Mary Ellen was in a group of women who were discussing the person in question in an unfavorable light. Finally one spoke up attempting to be somewhat kind and said "Well, the poor dear is her own worst enemy." To which Mary Ellen replied, "Not when I'm around she isn't."

She had high standards and was a perfectionist, whether she was giving a dinner party or learning all she could about an issue.

She was a loyal and caring friend driving friends to the hospital, visiting those who needed her and helping her former employees long after they had retired.

She could be very sensitive beneath her outward manner. Susanna talked about how her grandmother often squeezed her hand under the table at dinner parties and she felt her love and strength. We have all felt it in crucial moments.

She was a mentor to countless Senate wives and an advisor and confidant to many

including First Ladies Bess Truman, Barbara Bush, and Lady Bird Johnson.

She took time for young people and always spoke to my college interns from Oklahoma each summer. Venturing into a controversial area, she would pause and say, "Well, I shouldn't tell you about that." The students would beg, "Oh please Mrs. Monroney, tell us!" She always relented.

And so today we celebrate the life of a truly unforgettable character—an unforgettable friend, mother and grandmother.

A person known as Mary Ellen, George Miksch Sutton, a professor at the University of Oklahoma, was a great ornithologist, scholar, painter, and poet. Near the end of his life, he wrote some words which I want to share with you:

A very little time shall pass—
A white-crowned sparrow's song or two, a rustle in the grass—

Ere I shall die: ere that which now is grief
and sense of loss

And emptiness unbearable shall vanish
As curved reflections vanish with the shattering of a glass.

By the wind shall be scattered
Up and down the land,
By strong waves strewn along the farthest shore;

No part of the dear world shall I not reach
and, reaching, understanding,
No thing that I have loved shall I not love
and more.

No bird of passage shall fly north or south
Breasting the stiff wind or pushing through
the fog.

But I shall be there, feeling the deep urge
That drives it elsewhere at summer's ending,
And elsewhere once more with spring's return;

No creature the world over shall experience
love—

Drying its wings impatiently while clinging
to the old cocoon,

Leaping the swollen waterfall, yapping to
the desert moon,

Looping the loop above some quaking bog,
Pounding out drum music from some rotting log.

But I shall be there in each sound and
move—

Now with the victor, now with the vanquished.

A thousand thousand times I shall suffer
pain.

And that will be a mere beginning.
A thousand thousand times I shall die,
Yet never finally, never irrevocably,
Always with enough left of life to start
again: to be born,

To grow, give battle, win, lose, laugh, cry,
sing and mourn, to love,

Never quite losing the feeling of surprise
That it is good to live and die;
Learning to forget the word 'finally,'
Learning to unlearn the word 'ultimately,'
Learning, the long stretch of eternity having
just begun.

In recalling George Sutton's words, we celebrate the fact that Mary Ellen will always be with us.

When we face a challenge, she'll be there saying, "Meet it! Don't give up!"

When we are tempted to compromise she will be there saying, "Keep those high standards!"

When we are truly happy, we will remember her zest for life.

Mary Ellen, we will love you—always.

AMERICA'S ROLE IN THE WORLD

Mr. HATCH. Mr. President, I wish to take a few moments to say a few words about the American role in the world. With the end of the cold war, many believed that the United States could stand down from its leadership in the world and that the burdens of our global responsibilities would diminish.

In my view, the cold war officially ended on Christmas Day in 1991, when the red flag of the Soviet Union was lowered for the last time over the Kremlin. Yet during the next 2½ years, the demands for United States leadership have not abated. In some respects, they have increased.

To be sure, the challenge is different. We are not faced by a global threat from an ideological rival. Instead, we face the challenge of increasing global disorder and political instability. The threat is not one of conquest and intimidation by a rival power. Instead, it is one of increasing regional and civil conflicts that will demand responses from the international community.

The world will become engaged in these conflicts not purely out of altruism. It will also do so because they will affect the interests of the international community. Conflicts can produce thousands if not millions of refugees, unleash militants willing to use terrorism to achieve their goals, create military threats to vital resources such as oil, breed drug trafficking in war-torn areas, and even lead to environmental terrorism as the world saw during the Persian Gulf war.

Because the international community will not be able to remain indifferent in the face of such threats, the question then becomes how the world will mount a response. I firmly believe that the world will not be able to mobilize an effective response without strong U.S. leadership.

As the world's only military, economic, and political superpower, the United States must lead. During the cold war, we wrote the book on leading as a superpower. Without such leadership, the international community will flounder in responding to the new challenges we face.

Some argue the United States should turn over the reins of leadership to the United Nations. We could make no greater mistake than to heed that advice. In fact, the two most egregious failures of policy over the last 2 years are largely attributable to the United Nations.

Mr. President, let us look at the example of the U.N. operation in Somalia. We went into Somalia on a humanitarian mission. Our forces were configured and equipped to perform that task. Yet, through the United Nations, our responsibilities expanded.

Within 6 months, the United Nations was declaring that our troops were also in Somalia to engage in nation building—that is, to fix Somalia's internal

problems so that we would leave behind a stable and democratic government. But military forces are not suited to such a mission. Moreover, when the United Nations transformed our goal, it did not simultaneously transform the size and configuration of our forces.

Our mission and our forces were totally mismatched. In large measure, the subsequent disaster in Mogadishu was the result of ceding leadership over the Somalia mission to the United Nations.

An even more tragic example of muddled U.N. leadership is the situation in Bosnia. In 1991, when the dissolution of the former Yugoslavia began, the United States delegated its leadership role to its European allies and to the United Nations. We have all seen on television the tragic result of unchecked Serbian aggression and ethnic cleansing.

What went wrong? The United Nations opted for a course of action based on diplomacy unsupported by the judicious use of power. It imposed an arms embargo on all of the countries emerging from the former Yugoslavia and launched an unending series of negotiations among the combatants. However, because Serbia inherited the armed forces and munitions industry of the former Yugoslavia, the effect of the arms embargo was to keep the victims of aggression weak and to facilitate Serbia's aggression.

In addition, the United Nations unwillingness to recognize that negotiations alone would not stop Serbia was ruthlessly exploited by Serbian leaders, who feigned a desire to reach a settlement only to undermine any movement within the United Nations to take stronger action and to create a smokescreen for continuing aggression and ethnic cleansing.

The real tragedy was that this outcome could have been avoided through sensible policy. If the United States had exercised wise leadership, it could have lifted the arms embargo against Croatia and Bosnia—the victims of aggression—in order to create a balance of power on the ground. That, in turn, would have given the Serbs a genuine incentive to negotiate and reach a just peace settlement.

It is not too late to adopt such a course. But U.S. policy is hamstrung by its delegation of power to the United Nations, and the United Nations cannot lead because of conflicting views among its members and its continuing myopia about how to resolve the conflict.

Mr. President, the United Nations has not led effectively and cannot lead effectively in the future. Turbulent times in a changing world cannot be managed through leadership by committee. It is time for the United States to abandon its apparent belief that the United Nations can be the substitute for American leadership.

The issue of leadership would not matter if the stakes were small. But great opportunities will be forfeited unless the United States leads. In the former Soviet Union, 15 new countries are struggling to consolidate their independence and, in many cases, to develop working democratic institutions amid the economic ruins left in the aftermath of communism.

After the Soviet Union was dissolved in December 1991 and Yeltsin launched his reforms in January 1992, the United States and the West were shockingly complacent. It took more than 6 months before an assistance package was put together. What's worse, very little of the assistance was ever delivered. As a result, the opportunity to jump start free market economics and democracy in Russia might have been lost.

The failure of leadership was even worse with respect to the non-Russian states of the former Soviet Union. To this day, the West has not adopted an activist approach to help these new countries transform their economic and political systems and to provide for their own security.

To be sure, one of the problems is that there is no model for transforming a command economy into a free market economy. There is no road map for the policies that need to be adopted. However, without U.S. leadership, no creative effort to develop such a model will likely take place. The Europeans, whose economies are saddled with even more bureaucracy than ours, cannot preach what they do not practice. The Japanese are not trusted by the Russians. Only the United States can lead the way in this vital task.

It is vitally important that we do so because of the consequences should reforms fail. Russia could become a reactionary, expansionist power, as the recent parliamentary elections have suggested it might. Economic crisis in the non-Russian states could result in weak, vulnerable states along Russia's periphery. I cannot imagine any formula more certain to produce dangerous political and military instability in Eurasia, particularly after the feckless response to Serbian aggression in the former Yugoslavia.

Great opportunities and potential dangers also exist in Asia, where free-market economics have created the fastest growing economies in the world but where the lack of a security structure creates the threat of arms races and political rivalry. Every year, the amount of new GDP created by the growing economies of the Pacific basin is larger than the entire economy of Germany. Moreover, the successful developing countries of Asia can serve as models for market-driven development in other parts of the third world.

As these economies have grown, however, so have military budgets. East Asia exceeds any other region in the

world in terms of increasing defense spending. Countries that used to be minor players or weak regional powers will have the resources to play wider roles and to assert wider interests. As they do so, the potential for clashing interests will increase.

China is an example of the opportunities and dangers we face. The economic reforms adopted by China since 1978 have unleashed tremendous growth. Over time, the erosion of state control over the economy and erosion of the dependence of individuals and families on the state for basic necessities will open the door to peaceful political change in China.

Incidentally, that's one reason we should not revoke China's most-favored-nation trade status. To do so would undercut the very economic development that holds the greatest promise for the peaceful transformation of China's political system.

This economic growth has not only internal but also external political consequences. Regardless of our views of China's human rights record, we cannot afford to create irreconcilably hostile relations with a country whose foreign policies will be critical to long-term stability in Asia.

Today, China is a nuclear power, a major arms exporter, and a regional power. If China's growth continues, it will become the world's second largest economy in the next century and could well become the dominant military power in East Asia. Although we should speak out on China's human rights abuses, we must not hinge the entire Sino-American relationship on this issue. Too much is at stake in the long term to forfeit opportunities for cooperation and constructive engagement with China.

As the potential developments in East Asia show, those who say the end of the cold war means the United States can afford to put lower priority on security issues are wrong. We have vital interests at stake in Europe, East Asia, the Persian Gulf, and the Western Hemisphere.

Potential threats to those interests continue to exist. For example, Saddam Hussein's regime still poses a long-term threat to our interests in the Persian Gulf. His military capabilities were only partially destroyed in the gulf war. Iraq retains the ability to mount a nuclear weapons program. The economic embargo and no-fly zones imposed on Iraq cannot topple his regime. Since the international community's determination to keep these sanctions in place will wane over time, we must maintain the military capability to protect Western interests in the gulf.

In addition, I believe that we could do more to undermine Saddam's grip on power. We could tighten the sanctions by pressing Jordan to cut off commercial traffic to Iraq. We could build up the political stature of the

Iraqi National Congress, the umbrella organization of the Iraqi opposition. We could provide the Kurds in the north and Shia Arabs in the south with arms for self defense.

In a broader sense, we have a vital interest in global stability. Total U.S. trade accounts for more than 35 percent of the U.S. gross domestic product, and international trade depends on stability. The enormous expansion of trade over the past 40 years was made possible by the security umbrella provided by U.S. global military capabilities.

Some say that in the future arms control alone can achieve such stability. I do not agree. Nations acquire arms to assert or defend conflicting interests, not because of the absence of arms control treaties.

During the cold war, no issue consumed more time on the part of American Presidents but produced fewer results than arms control. All the United States-Soviet negotiations and summit meetings produced agreements that only slightly altered the military spending and weapons procurement programs of the two countries. Once the cold war was over—that is, once the democratic revolution in Russia made Moscow a potential friend rather than an adversary—the major arms reductions under Start I and Start II become possible.

Thus, the lesson of the cold war is that it is not arms control but concrete political interests and relationships that will determine military spending and stability.

That has implications for many post-cold-war arms control issues. It would be a mistake, for example, to pursue a total ban on nuclear weapons testing. The fact is that we continue to depend on nuclear weapons as part of our military posture. As long as we do so, we must conduct sufficient tests to ensure the safety and reliability of those weapons.

Efforts to reduce the international arms trade must also be realistic. The problem is not the level of trading in military equipment but the effect of such sales on regional balances of power. There is nothing wrong with selling arms to Israel and other friendly and non-aggressive states. United States efforts to constrain the flow of arms should be focused on keeping weaponry and munitions out of the hands of international outlaws, such as Syria, Libya, Iraq, Iran, and North Korea.

Proliferation of weapons of mass destruction and the means to deliver them will become increasingly important. So far, U.S. policy has been shortsighted. Too often, we focus solely on export controls designed to block the acquisition of critical Western technologies by would-be proliferators. Export control is important, and the Clinton administration has erred in loosening

export control in ways that will facilitate such evasions.

More important, vulnerable states can be persuaded not to develop or retain weapons of mass destruction by enhancing their security. Ukraine, for example, has been tempted to retain nuclear weapons because of the potential security threat from Russia. Therefore, the most effective route to ensuring that the democratic government of Ukraine forgo the nuclear option would be to develop policies and security relationships in the former Soviet Union that alleviate Kiev's potential fears.

The greatest problem is not proliferation by countries such as Ukraine but proliferation by rogue states that might actually use such weapons. North Korea comes to mind here. No one should underestimate the difficulty of controlling proliferation in such situations.

Although we should spare no political and economic instruments of power, we have very little leverage vis-a-vis North Korea. Even a total embargo will likely not be decisive against one of the most isolated governments in the world. The only viable option is to work with China, Japan, and South Korea to persuade and pressure North Korea to allow international inspections of its nuclear facilities that would prevent diversion of nuclear materials to a weapons program.

Beyond these security issues, the international community will face many problems related to unstable multinational states, ethnic conflicts, and containing interstate tensions. The progress in the Palestinian-Israeli peace process is encouraging. The democratic breakthrough in South Africa is hopeful but fragile.

In these and other cases, the United States should not be a passive observer but an active participant in advancing peaceful progress. It should do so because no other state has the standing and resources to play a positive role. It should do so most of all because the other side of the coin of progress is the potential for horrific violence, as we have witnessed in Bosnia and in Rwanda.

At the same time, the United States must lead if the international community is to address novel issues brought about by increasing international interdependence. These include international environmental issues, such as protection of endangered species.

It also includes developing concerted responses to international criminal organizations that are having an ever-greater effect on American life. Such organizations include not only drug cartels but also financial fraud operations and other types of criminal activity. The international community will never get a handle on this challenge unless the United States leads the way in developing strategies and

capabilities to neutralize these organizations.

Mr. President, I have outlined here some of the reasons why strong American international leadership is imperative. In closing, I would like to note one additional reason why only the United States can play this role: The United States is the only major power viewed around the world as an honest broker. Around the world, others come to the United States for assistance not only because of our power but also because they understand that our policies are guided in part by a sense of what's right and wrong. We often take that for granted, but historically American leadership—guided by idealism—is the exception but not the rule. In a turbulent world, it is a positive influence that the international community cannot afford to lose.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, before we ponder today's bad news about the Federal debt, let's have a little pop quiz: How many million would you say are in a trillion? And when you figure that out, just consider that Congress has run up a debt exceeding \$4½ trillion.

To be exact, as of the close of business on Tuesday, June 14, the Federal debt stood—down to the penny—at \$4,605,761,962,704.33. This means that every man, woman, and child in America owes \$17,666.16, computed on a per capita basis.

Mr. President, to answer the question—how many million in a trillion?—there are a million, million in a trillion. I remind you, the Federal Government, thanks to the U.S. Congress, owes more than \$4½ trillion.

TRIBUTE TO LT. GEN. ROBERT A. TIEBOUT ON HIS RETIREMENT FROM THE U.S. MARINE CORPS

Mr. SASSER. Mr. President, today, I want to congratulate Lt. Gen. Robert A. Tiebout, Deputy Chief of Staff for Installations and Logistics, U.S. Marine Corps, on the occasion of his retirement from the corps.

During his 33-year career, General Tiebout has served in nearly every area of logistics throughout the corps and has distinguished himself as being the first marine engineer ever to achieve three star rank. He has been categorized as a marine's marine. His career has been marked by his dedication to country, corps and the marines and civilians serving our country. He practiced total quality leadership long before it came in fashion. He has commanded marines in peace and war at every rank from second lieutenant to major general.

Whether he was in the jungle of the Republic of Vietnam or directing procurement during Operation Desert

Shield/Desert Storm, General Tiebout's leadership has been marked by honesty, integrity, and a common sense approach to every decision. His most recent assignment was in a position of great responsibility where many Senators and senior staff members had discussions with him regarding his testimony during hearings on subjects ranging from base closure to Marine Corps readiness. His credibility and devotion to duty are unsurpassed.

Mr. President, I ask our colleagues to join me in congratulating General Tiebout and his wife, Lil, on their transition to civilian life. I am pleased to note that they have chosen to return to Tennessee, where I know each of them will continue to contribute their many talents, but now for the people of Tennessee. I know all of us thank him for his dedicated, professional, and selfless service to the United States of America and to the men and women of our Marine Corps.

PAN AM 103

Mr. MOYNIHAN. Mr. President, I rise to discuss the supposed confession recently made by Youssef Shaaban, who claims to have carried out the 1988 terrorist bombing of Pan Am flight 103. Many understandably view this abrupt and unexpected confession with skepticism. We must of course fully investigate Mr. Shaaban's claims. As we should pursue every lead that might help bring to justice the criminals who murdered the Pan Am 103 victims.

In doing so, we must not let our investigation of Mr. Shaaban's allegations distract us from maintaining pressure on Libya to comply with extradition requests for the already indicted suspects, Abdel Basset Ali Megrahi and Lamen Khalifa Fhimah so that they may stand trial. Libya continues to twist and turn in their efforts to avoid complying with the Security Council's demands. Stronger sanctions—specifically, an oil embargo—are needed.

I note that during the debate on China's MFN status there were some troubling comments made concerning the Clinton administration's views on the use of sanctions generally, for instance R. Jeffrey Smith's May 31, 1994, article in the Washington Post. As chairman of the Senate Foreign Relations Subcommittee on Near Eastern Affairs I would like the administration to understand that there must be no blinking in using sanctions to force Libya to surrender the suspects in the bombing of Pan Am flight 103. This matters. Congress has not forgotten, nor have the American people. Nor shall we.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived and passed, the Senate will now resume consideration of S. 1491, which the clerk will report.

The legislative clerk read as follows: A bill (S. 1491) to amend the Airport and Airway Improvement Act of 1982 and authorize appropriations, and for other purposes.

The Senate resumed consideration of the bill.

Mr. D'AMATO addressed the Chair. The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized.

Mr. D'AMATO. Mr. President, yesterday on a straight party line vote, Senate Democrats trampled our constitutional responsibility to engage in meaningful congressional oversight of the executive branch of Government. During 12 years of Republican administrations, the Congress kept a bright spotlight of congressional oversight on the White House searching far and wide for any sign of potential wrongdoing. Well, yesterday, congressional Democrats voted unanimously to turn the lights out. Yesterday, 56 Senators abandoned a 200-year tradition of thorough and fair congressional oversight in favor of a new policy: See no evil, hear no evil, speak no evil.

When it comes to advancing the programs of the administration, it is fair to expect congressional Democrats to carry the President's water. But when it comes to our constitutional oversight obligations, the American people do not want Congress to carry his Whitewater, too. Make no mistake about it: yesterday, 56 Senators voted to place a short leash on the congressional watchdog and handed it over to the independent counsel. Never before has Congress stepped aside and abandoned or postponed its constitutional oversight responsibilities while an independent counsel conducted an investigation.

Never once in our history has Congress authorized an independent counsel, or anyone else, to dictate the scope or timing of congressional oversight activities—that is, never before yesterday.

Did Congress get permission from Archibald Cox or Leon Jaworski to hold Watergate hearings? No. Did Congress postpone Iran-Contra hearings because of concerns that hearings might interfere with Lawrence Walsh's ongoing investigation? Absolutely not. Yet, this is exactly what Senate Democrats have done in the case of Whitewater.

Yesterday, after Senate Democrats voted against my amendment for full and fair Whitewater oversight hearings, I began the process of giving our colleagues an opportunity to, at a minimum, authorize meaningful oversight activities. I plan to continue that process today by offering amendments that

would provide the same tools to the Banking Committee that were provided to countless other oversight committees in the past.

Under the amendment adopted yesterday, it would be impossible to conduct genuine oversight activities. Yesterday's amendment does not expressly grant authority to order Federal and State Governments to produce all relevant documents. Yet, this authority was given to the Senate select committee investigating Iran-Contra, the select committee to investigate Justice Department undercover activities, established in 1982, and the select committee investigating Watergate.

How is that? Why is that? Why was that authority necessary in those cases and yet explicitly deleted from yesterday's amendment? I will be offering an amendment asking for that same authority.

Yesterday's amendment does not expressly provide for access to any relevant evidence in the control of the Federal Government's agencies or departments. Yet, this authority was given to the Senate select committee investigating Iran-Contra, the select committee to investigate the Justice Department undercover activities, and the Senate select committee investigating Watergate. We are going to ask for that same authority.

Mr. President, there is an established procedure but we have trampled over it by providing such a limited scope to the hearings so that these hearings would be worthless.

Yesterday's amendment does not encourage the oversight committee to seek access to information acquired or developed by other investigatory bodies. Yet, when the Senate established a select committee on Iran-Contra, it included a statement encouraging that committee to obtain information acquired or developed by other investigatory bodies. That same methodology should be part and parcel of this committee and of all oversight committees undertaking these kinds of investigations.

Yesterday's amendment does not request the independent counsel to make relevant evidence available to the oversight committee to assist the Congress in conducting a thorough investigation in an expeditious fashion. Yet, it is interesting that there was such a provision in the resolution establishing the Senate Iran-Contra select committee.

Why have we not followed the normal prescription? How is it that we have now come to a point where we have stripped down and made impotent any hearings that could have a meaningful inquiry? After having insisted that the Senate wait to hold hearings until the independent counsel has completed its first phase of investigation, the amendment adopted yesterday fails to request that the independent counsel make available his evidence to the Whitewater oversight committee.

Why? What do we have to hide?

Mr. President, I will offer an amendment to address those obvious deficiencies in the legislation which is now being considered.

Mr. President, yesterday, one of my colleagues called the amendment supported by Democrats a "fig leaf." I think that was too generous for a transparent effort to prevent meaningful and fair congressional oversight of the Whitewater affair.

The American people can see right through that. I believe they will come to understand that that was not a bona fide effort to give people the hearings that they are entitled to.

AMENDMENT NO. 1782

(Purpose: To authorize hearings on the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1782.

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs [special subcommittee] shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the circumstances surrounding and the propriety of the committees-futures trading activities of Hillary Rodham Clinton.

Mr. DASCHLE. 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. GORTON. 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. GORTON. Mr. President, I ask unanimous consent to proceed as if in morning business for not to exceed 6 minutes.

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

CRANBERRY WETLANDS

Mr. GORTON. Mr. President, shortly before the Senate left for the Memorial Day recess, the chairman of the Senate Environment and Public Works Committee announced that the Senate would soon consider legislation to reauthorize the Clean Water Act. In anticipation of the consideration of this legislation, I have been working with the chairman and ranking Republican member of the committee to address the unique concerns that cranberry growers have with the wetlands title in the committee's legislation.

Washington State is certainly not the largest of the cranberry producing States, but when the growers of my State asked for help in trying to make the Clean Water Act work for them, I listened to their concerns. I told the Washington State growers that I would do what I could to help them because I know that the jobs of the workers in cranberry processing plants, and the ability of individual growers to provide jobs and economic opportunities to families in communities along the coast of Washington State, depend upon making the Clean Water Act work for these growers. The growers and I have worked hard with the committee over the past several months in an attempt to develop a compromise that will address the concerns of cranberry growers. I continue to hope that a compromise can be worked out, but in the event that it cannot, I am prepared to offer an amendment on the floor on behalf of the growers of my State and of other States.

Mr. President, a few months ago several environmental groups sent a letter to Senators suggesting that cranberry wetlands were not "good" wetlands. The April 18 letter from the National Wildlife Federation is full of many inaccuracies on cranberry wetlands, and today I will clear up these inaccuracies and set the record straight.

Inaccuracy No. 1: The letter asserts that cranberry growers are seeking an exemption from the Clean Water Act.

After several discussions with committee staff it became clear that an exemption, while preferable to the growers, was of some concern to that committee—so the growers compromised. Today we are working with the committee to make nationwide permit 34, which has already been granted for cranberry growing operations, more workable for individual growers.

Inaccuracy No. 2: The letter falsely states that cranberry wetlands "degrade water quality * * * harm fisheries * * * and reduce water quantity."

A 1991 study by the Environmental Protection Agency and the Massachusetts Executive Office of Environmental Affairs on Buzzards Bay stated that the cranberry bog system "plays an increasingly important role in the preservation of open space, water storage and conservation, ground water recharge, and in providing wildlife habitat."

Those unfamiliar with cranberry growing operations may not realize that for every acre of active cranberry wetlands, a grower has an average of 10 acres of surrounding land that is not farmed, but left relatively untouched to support the cranberry wetlands.

I am continually amazed to read statements by environmental organizations that attempt to paint all of agriculture as destroyers of the land and

the environment. Nothing could be further from the truth. Cranberry growers—together with the rest of our Nation's agriculture community—have a vested interest in the land from which they make their livelihood. And, in the opinion of this Senator, to make statements to the contrary does a great disservice to the families across Washington State and the Nation who provide a great and important contribution to our Nation's economy and food supply.

Inaccuracy No. 3: The letter states that "cranberry growers already receive streamlined review for converting wetlands and streams into cranberry beds under nationwide permit 34."

Mr. President, if only this statement were true. In fact, cranberry growers cannot effectively use this nationwide permit because Federal and State agencies are not allowing growers to use it as it was intended. Consequently, growers are not seeking an exemption from section 404 permitting process, but rather a legislative solution to allow the nationwide permit to work in practical terms.

In fact, prior to the Memorial Day recess, EPA Administrator Carol Browner stated in testimony before the House Public Works and Transportation Committee that,

The administration believes that the concerns of cranberry growers can be addressed without creating new exemptions from permitting requirements, and in ways that not only meet the needs of the potential applicants, but also provide for appropriate State roles and adequate environmental protection.

This is exactly what cranberry growers in Washington State want and need. I want to make clear that the legislative solution that the growers seek is not an exemption from section 404 permitting process, but rather a way to allow for modest expansion of existing operations, as allowed for under nationwide permit 34.

Mr. President, I hope that I have cleared up any misconceptions about cranberry wetlands that may have come about as a result of the letter from national environmental groups. Although both the growers and I would prefer to have this issue ironed out and included in a managers amendment to the committee's clean water legislation, I am prepared to offer an amendment on behalf of Washington State's cranberry growers, and those of other States, when the legislation comes to the floor.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from the National Wildlife Federation, dated April 18, 1994.

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

NATIONAL WILDLIFE FEDERATION,
Washington, DC, April 18, 1994.

U.S. Senate,
Washington, DC.

DEAR SENATOR: We are writing you because we are deeply concerned that §404 of the Clean Water Act will be seriously weakened by exempting the conversion of wetlands into cranberry beds.

A statutory exemption for expansion of cranberry production would have devastating effects on the environment. Cranberry beds are so intensively managed that they are reduced to biological wastelands, virtually bereft of any flora and fauna beyond the cranberry vines themselves. In fact, most cranberry beds do not even meet the regulatory definition of wetlands. Furthermore, the impacts of converting wetlands to cranberry production can degrade water quality (adding sediments, nutrients, fertilizers and pesticides to downstream waters, sometimes in acutely toxic amounts); harm fisheries (altering cold water fisheries and impeding migration of anadromous fish); and reduce water quantity (by diverting flows from rivers, streams and wetlands).

This exemption would expose literally thousands of acres of wetlands to development with no environmental review. In just a seven-year period, from 1982 to 1989, the U.S. Army Corps of Engineers authorized the conversion of over 5,000 acres of wetlands to cranberry beds in Wisconsin alone.

Moreover, there is no need for a statutory exemption for expansion of cranberry facilities. Contrary to popular belief, cranberry beds do not need to be constructed in wetlands. A recent U.S. Fish and Wildlife Service study demonstrates that over 66% of the new cranberry beds constructed in Massachusetts between 1977 and 1986 were constructed on upland.

If cranberry growers are exempted from regulation under Section 404 of the Clean Water Act, many other industries and associations will demand similar treatment. In fact, the potential cranberry exemption has already sparked demands from such groups as the Texas Farm Bureau for statutory exemptions for rice and aquaculture.

Finally, it is important to note that the cranberry growers already receive streamlined review for converting wetlands and streams into cranberry beds under nationwide permit 34 (NWP 34). NWP 34 virtually automatically authorizes cranberry growers to convert up to 10 acres of natural wetlands and streams—the equivalent of 7 football fields.

A statutory exemption for converting wetlands to cranberry production would strip away existing state authority, under Section 401 of the Clean Water Act, to condition or deny water quality certification for NWP 34. The states' rights to act to preserve quality of their waters must not be abrogated by amending the Clean Water Act to exempt conversion of wetlands to cranberry production.

We urge you to oppose any amendments or bill provisions that would exempt conversion of wetlands to cranberry production. Such an exemption would undermine the effectiveness of the Clean Water Act and would harm the quality and quantity of the waters within your states.

Thank you for your attention to this matter.

Sincerely,

Terry Schley, Counsel, Fish & Wildlife Resource Division, National Wildlife Federation.

Ken Bierly, Wetlands Program Manager, Oregon Director of State Land.

Bob Adler, Senior Attorney, Natural Resources Defense Council.

Sally A. Zeilinski, Executive Director, Massachusetts Association of Conservation Commissioners.

Steve Moyer, Legislative Director, Trout Unlimited.

Pam Goddard, Legislative Representative, Sierra Club.

Carolyn Hartmann, Staff Attorney, U.S. Public Interest Research Group.

Dawn Martin, Director, Washington, D.C. Office, American Oceans Campaign.

Clark Williams, Legislative Representative, National Audubon Society.

Tim Searchinger, Attorney, Environmental Defense Fund.

Lisa Kahn, Legislative Representative, Friends of the Earth.

Mr. GORTON. Mr. President, I yield the floor.

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair recognizes Senator DASCHLE.

AMENDMENT NO. 1783 TO AMENDMENT NO. 1782

Mr. DASCHLE. Mr. President, I have an amendment to the amendment offered by the Senator from New York, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. MITCHELL, proposes an amendment numbered 1783 to the D'Amato amendment No. 1782.

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

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

The amendment is as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. DASCHLE. Mr. President, this amendment is the same amendment offered by the majority leader yesterday. It passed, as we all know, on a party-line vote. It is an amendment that builds upon the legislation offered last March 17.

The amendment then offered by the majority leader is consistent and responsive, and I believe ought to be considered today as it was yesterday.

The resolution on March 17, just to remind my colleagues, stated that:

The hearings should be structured and sequenced in such a manner that in the judgement of the Leaders they would not interfere

with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. President, that is really the issue here. The issue was debated thoroughly yesterday. I suspect it will be debated again today.

Unfortunately, we are covering a lot of old ground with the deliberations once again before us, legislation frankly that keeps us from getting to the investigation we all say we want.

Under the majority leader's approach, approved yesterday by the Senate, hearings will commence on the first phase of the Whitewater matter in the Banking Committee approximately 30 days after the special counsel indicates that such hearings would not interfere with his investigation, or by July 29, whichever is earlier.

Let me repeat that, just to be sure everyone understands what we did.

The Senate hearings will commence on the first phase of the Whitewater matter in the Banking Committee, as we all have recognized has jurisdiction, approximately 30 days after the special counsel indicates that such hearings would not interfere with his investigation. If they have not commenced prior to July 29, they will commence on that date, regardless.

The President has moved forcefully to address questions which have arisen about the so-called Whitewater matter. He has faced questions from the media on several occasions, including a major press conference. He has reassured the American people. And he has taken necessary steps to assure that there will not be even the appearance of interference in the investigation by anyone in the White House. The First Lady has also addressed the matter in an unprecedented and extensive major press conference.

Just this past Sunday, the President answered special counsel Robert Fiske's questions, under oath, for 90 minutes, and Mrs. Clinton answered Mr. Fiske's questions, also under oath, for about an hour. According to press reports, the questioning was limited to first-phase matters.

So the investigation by the special counsel is underway; it is continuing. It is doing what we hoped it would do when we called for the special counsel several months ago.

It is a serious matter. It is being conducted by a serious man. Mr. Fiske, as everyone in this room has attested, is a man of unquestioned ability and a very strong prosecutor. He is a Republican. He was named pursuant to the request led by congressional Republicans for a special counsel.

His appointment was applauded by virtually every single Senator in this body. The junior Senator from New York, for example, stated:

Bob Fiske is uniquely qualified for this position. He is a man of uncompromising integrity. He will unearth the truth for the American people.

Unearth the truth, that is what we are really trying to do here. If we are to unearth the truth in a meaningful way, in a way that is subject to some process, then we have no choice but to let Mr. Fiske do his job. That is what we said last March 15; that is what we said again yesterday, as we confirmed the scope of the inquiry by the Senate Banking Committee.

Many of the same Republicans who called for a special counsel unfortunately shifted partisan gears just as soon as he was named, and began calling for congressional hearings. Even in the face of that very counsel's opposition to such hearings, they continue to demand that the Congress go forward in a way that risks damage to the investigation, which we all state we want done. Even as we move carefully and deliberately toward congressional hearings which do not interfere with the investigation, now they complain that we are not moving fast enough; that we are stonewalling. This willingness to demand public hearings at any cost seems to me, Mr. President, to be further evidence that the purpose of all of these calls by some is merely political.

The special counsel wrote on March 7 of this year to the chairman and the ranking member of the Senate Banking Committee. In that letter, he made a very specific request. That request in part was, and I quote:

That the committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving fairness, thoroughness, and confidentiality of the grand jury process.

He further stated:

We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation. Inquiry into the underlying events surrounding MGS&L, Whitewater, and CMS by a congressional committee would pose a severe risk to the integrity of our investigation.

So that was a letter directed to the chairman and the ranking member of the Senate Banking Committee asking for time, asking for an opportunity to do the work that we asked them to do, asking for the credibility to be protected, asking for the ability for him to sort fact from fiction, and give us an honest, complete, and thorough investigation in a timely manner.

And then, on March 9, in a public press conference, Mr. Fiske stated his position that once his investigation into communications between White House officials and Treasury Department or Resolution Trust Corporation officials about Whitewater-related matters and his investigation into the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster is complete, he would have no objection to congressional hearings on those matters.

In other words, Mr. President, what he was saying is that there are phases here that we have talked about now at some length. The first phase would be completed, upon which he would turn to the second phase.

At the press conference related to that second phase, he said:

[T]he position that I've expressed in the letters and in the meetings has been fairly consistent, that we are concerned about the impact of congressional hearings on the investigations that we are conducting as long as those investigations are in progress. [As] you know, there are really two separate investigations. There's the one that I started with [at] the end of January that's reflected in the regulation that was drafted, which is looking into the activities in Arkansas in the 1980s relating to Madison, Whitewater, and Capital Management, and then here in Washington * * * inquiring into all of the circumstances relating to the death of Vincent Foster.

The disclosures in recent days about the meetings between the White House officials and the Treasury officials led us to initiate an additional investigation into the circumstances surrounding those meetings, but I think that that investigation relating to those meetings is separable from the other investigations that we started with in January. And I have told Senator Riegle and I've told Senators D'Amato and Cohen that when we are finished with the White House, which I'm quite confident we can be finished with considerably faster than we can the underlying investigation, we would have no objection to congressional hearings at that point so long as something can be done to protect against having the contents of the RTC referrals themselves come out in those hearings.

* * * * *

But with respect to the underlying investigation, the one that we started with, we are concerned about the impact of congressional hearings on that investigation.

Mr. President, it is very clear that Mr. Fiske over and over and over again has demonstrated his conviction in writing, in statements to the media, and in his comments to each of us that it is very critical he be given the opportunity to continue and to finish his work; that there is a sequencing here that is very important to the legal as well as to the legislative process.

The bipartisan leadership of the House of Representatives met with Special Counsel Fiske on Thursday, May 26. At that meeting Mr. Fiske stated that by the latter half of June, barring unforeseen developments, his office's inquiry into three matters, the first phase of the Whitewater matter, will be completed: Communications between White House officials and Treasury Department or Resolution Trust Corporation officials about Whitewater-related matters; the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster; and the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death.

These are the matters which the Senate yesterday voted to authorize the

Banking Committee to begin hearings on; in other words, the first phase of the investigation will begin in July, as we stipulated in the resolution passed yesterday.

The majority leader, as we debated that resolution, made it very clear and emphasized in both public and private statements that he and the Senate are and have been firmly committed to meeting the obligation that is represented in those hearings, a constitutional obligation to conduct proper oversight. We are determined to conduct that oversight in an appropriate way which will avoid interfering with the investigation now being conducted by Special Counsel Fiske that he has so adamantly asked us to do.

Efforts to go beyond this and, frankly, artificially impose timetables for additional hearings concerning the matters which are subject to the underlying investigation, clearly run counter to Mr. Fiske's requests in his letter of March 7. They run counter to his statements in news conferences and in meetings with Senators and Congressmen alike. They are counterproductive, they are political, and they obfuscate our opportunity to provide a clear answer to the outstanding questions relating to this matter.

So, Mr. President, I certainly hope at some point on this day we can resolve these issues, that we can finally get on with it, that we can recognize that we have a job to do, a constitutional responsibility to conduct oversight hearings in a proper way, recognizing the authority of the special prosecutor, recognizing his unique need to finish his work first.

That is what this debate is all about. So, as we continue today, I hope people will come to that conclusion and share with us a determination to do our work and to do it properly.

I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina [Mr. FAIRCLOTH].

Mr. FAIRCLOTH. Mr. President, will the Senator from South Dakota yield for a question?

Mr. DASCHLE. I am happy to respond to a question.

The Senator from North Carolina has the floor, so it is not necessary for me to yield. But I would certainly answer whatever question he may propound.

Mr. FAIRCLOTH. If Mr. Fiske has no objection to hearings on the commodity trades, would the Senator be willing to go immediately into Banking Committee or special committee hearings on the commodity trades? I mean immediately, if Mr. Fiske has no objection?

Mr. DASCHLE. The commodity trades are not a direct result of the Whitewater investigation. There is no connection between commodity trades and the Whitewater investigation.

The issue before us has to do with the Whitewater investigation. It has to do with coming to grips with our constitutional responsibility to directly involve ourselves with proper oversight.

I do not know whether the Senator from North Carolina has ever participated in commodity trades. He certainly would have a right, as any American has, to participate in commodity trades. I do not believe, if he were to do so, that he would feel it necessary for the Senate to oversee his transactions in any personal way.

It is certainly the right of the Senate to get involved in transactions if they perceive there to be some wrongdoing. But there has been no wrongdoing in this matter. I suspect that it would be appropriate for us to do as the prosecutor has suggested, which is to stay with the issue, to get on with the investigation, and to conduct our oversight in a meaningful way. I think that is what the Senate will do.

Mr. FAIRCLOTH. Has the Senator ever dealt in commodity trades?

Mr. DASCHLE. I would answer the Senator that I have not.

Mr. FAIRCLOTH. I would answer that I have, and that is the exact reason that I feel the dealings with Mrs. Clinton are so in need of investigation. And I think anybody that has ever had any connection with the commodity market would have extreme suspicion from her trades. It is an impossible thing to believe.

Mr. President, the U.S. Senate needs to examine the Whitewater affair. The amendment the Senate adopted yesterday was a total sham.

I have a letter from Mr. Fiske saying that he has no objection to the Senate looking into Mrs. Clinton's commodity trades. I would hope that we could get on with that immediately. He says he has no objection.

But the commodity trades are just one aspect of a convoluted trading and dealing that went on during this time period we are talking about.

"Whitewater" is a term which not only describes a failed land development. It has also come to describe a web of interconnected scandals involving personal and political friends of the President.

Lurid tale after lurid tale has emerged. They involve a mind-boggling range of subjects, from drug dealers, to insider trading, to document shredding, and more. One subject might seem to have nothing to do with the other, except for one thing—the same names keep popping up in story after story.

We are frequently told that while these things do not look too good, we have to understand that is the way things are done in Arkansas. Everyone knows each other, everything is connected to everything else. Nothing is wrong, it just looks bad.

Yet the very same people who say "everything is connected" in Arkansas

to excuse the likes of Patsy Thomasson working for a drug dealer on one day, and in the White House on the next, want to limit the Whitewater hearings. They do not want the U.S. Senate to look into the interconnected scandals which have collectively come to be known as Whitewater.

Mr. President, the examples of the interconnected scandals which require that the Senate hold full—not limited—Whitewater hearings are legion.

For instance, we now know that the drug dealer Dan Lasater, did much more than just give Clinton's half-brother Roger a job. We also know that Dan Lasater did much more than hold fundraising parties for Bill Clinton, fly the Clintons around in his jet, and fly celebrities to Hillary Clinton's charity parties.

We now know that Dan Lasater told the FBI that he had paid off Roger Clinton's drug debts—after Roger told him that cocaine dealers were, "putting the heat on him and something might happen to his brother and his mother."

You may recall that Lasater had first met the mother of the Clinton brothers, the late Mrs. Virginia Kelly, at the horse rack track in Hot Springs, AR.

We now know that Federal and State law enforcement documents describe widespread cocaine use among Lasater, his employees, business associates, and friends. Some of Dan Lasater's employees, business associates, and friends now occupy high places in this administration.

Those same law enforcement documents describe parties at which vials of cocaine were distributed as party favors. Ashtrays filled with cocaine were spread among the hors d'oeuvres, and cocaine was served on the Lasater corporate jets.

Yet after Bill Clinton was reelected to the Governor's mansion, despite the fact that Lasater had been censured by the Arkansas State Securities Commissioner and by the National Association of Securities Dealers, Lasater was put on the select list of firms eligible to underwrite State of Arkansas bonds. That designation made millions for Dan Lasater.

The most infamous bond underwriting issue that Lasater did for Governor Clinton was \$30.2 million issue for a new State Police radio system. That contract alone earned Lasater \$750,000 of taxpayer's money.

What many have not heard is how Lasater got the contract. He began by arranging a partnership with another brokerage house that had recently pled guilty to a multimillion-dollar check kiting scheme in New York. Then he went to his friend Bill Clinton.

In fact, FBI documents obtained by the Los Angeles Times quote one of Lasater's partners, a retired Democrat State Senator, as crediting Lasater's political support for Clinton for winning the State bond contract.

In May 1986, a board made up of Clinton appointees awarded the contract to Lasater. A week later, however, a joint committee of the Arkansas Legislature balked. With the project hung up, Bill Clinton became personally involved.

At least three Democrat Arkansas State legislators have said that they were personally lobbied by Clinton on behalf of the Lasater partnership. One said, "I remember he lobbied all of us on this," and then credited Clinton with switching his vote. In June, Dan Lasater was awarded the contract.

But the story does not end there. In fact, the next phase of the story actually began 5 years earlier, in 1981, when the President's half-brother Roger was arrested for selling drugs to an undercover police officer. Roger Clinton pled guilty to conspiracy to distribute cocaine.

After his guilty plea, Roger Clinton was sentenced to 2 years in prison. It was a reduced sentence, which he received for agreeing to testify against a boyhood friend named Sam Anderson.

Sam Anderson was tried in February 1985. Testifying on his own behalf, Anderson said that Roger Clinton had told him that he had been approached by State police investigators and that he was, and I quote "Very, very frightened * * * totally frightened to death." He said that Roger had informed him that the investigators had told him that they wanted to set up three people for drug arrests, including Dan Lasater.

The director of Bill Clinton's Arkansas State Police sent an investigator to interview Lasater at that time—the same time that the Arkansas State Police Commission was considering Dan Lasater's bond proposal. According to State and Federal documents, Lasater told the investigator during that interview that he had used cocaine.

But despite the fact that Dan Lasater had just confessed to the investigator sent by the director of the State police that he was a cocaine user, he was awarded the contract to finance the Arkansas State Police radio system.

Six months after he was awarded the bond contract, Dan Lasater formally became the target of a joint State-Federal drug task force investigating cocaine distribution in Little Rock. FBI documents show that he later confessed to using cocaine, and to giving it away to friends, employees, and business associates on more than 180 occasions.

It has now been revealed that during this investigation, which ran through the spring and summer of 1986, Col. Tommy Goodwin, Bill Clinton's director of the Arkansas State Police, was routinely briefing the Governor on the investigation.

Bill Clinton, who had been bankrolled by Lasater, who had been flown around Arkansas on the Lasater jet, and whose brother's drug debts had been paid by Lasater, was now receiv-

ing confidential briefings on the Lasater criminal investigation.

Mr. President, Colonel Goodwin says he only did it because Bill Clinton was curious, not because he had any special interest in the case. We do not know.

But what we do know is that—from Tommy Goodwin and the Lasater case, to Roger Altman and the RTC criminal referrals—it seems that Bill Clinton has a special fondness for private heads up from supposedly independent agencies.

In October 1986, Dan Lasater was indicted for possessing and distributing cocaine. The U.S. attorney said that Lasater and his associates were blatant in their drug use. Lasater maintained a supply of cocaine in his pockets and even snorted it at his office.

He pled guilty, and as part of his plea he agreed to make detailed statements about his cocaine use. He also agreed to identify the people he gave cocaine to during parties, during business meetings, and as part of his business entertainment.

Mr. President, there are many people in high places in the White House who associated with Dan Lasater. The public should also know that after all this time, many top people at the White House still have not yet gotten national security clearances—another brewing scandal. In light of that fact, the U.S. Senate should have Dan Lasater's cocaine list now.

Mr. President, I would like to stop this sorry tale right there. But one more point has to be made.

Dan Lasater is out of jail. He is not just a free man. He is a pardoned man. Mr. President, the man who admitted to carrying pockets full of cocaine was pardoned by Bill Clinton.

In his application to Bill Clinton for a pardon, Dan Lasater excused his criminal behavior, saying that the cocaine was used in social situations. He compared it to—and I quote—"paying for dinner and drinks for my friends."

And, as you know Mr. President, a pardon is necessary before any convicted felon can apply to get a firearms license. So Dan Lasater went on to say that he wanted the pardon to restore his rights to carry firearms, so that he could teach his sons—and again I quote—"the skills of the woods."

Mr. President, Bill Clinton—the leader of the free world, and the man who says that he wants to get firearms out of the hands of criminals—issued a pardon to a man who gave out vials of cocaine as party favors, and who told him in advance that he wanted the pardon so that he could get a gun.

Mr. President, this is shameful. I was not in the Senate in the 1980's. I do not know, and I do not care, how many times the Democrats investigated the Republicans. Frankly, that is ancient history.

But if this Senate does not have full Whitewater hearings, hearings that get

to the bottom of the Dan Lasater mess, the Travelgate mess, the commodities trading mess, and all the other fiascos that have been transplanted here to infect our Nation's Capital, then the American people will cry cover up. And they will be right.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair. THE PRESIDING OFFICER (Mr. MATHEWS). The Senator from New York.

Mr. D'AMATO. Mr. President, let me speak to the amendment.

First of all, let me thank my colleague for touching on matters that might create some consternation with some people. These matters focus on: Lasater and his dealings, Patsy Thomasson, who ran Mr. Lasater's company for 2 years when he was not present, and the manner in which that company operated.

The amendments to be submitted are necessary because for too long these matters have been shrouded. Certainly, it would seem that this is the intent of the underlying legislation: To keep us from examining these issues so the people can see what is taking place.

I find it rather disconcerting that Patsy Thomasson, who ran Mr. Lasater's company for 2 years while he was in prison, is the Director of Administration at the White House. I find it incomprehensible, to be quite candid with you. I am shocked to have that kind of situation and I wonder how that came about.

Having said that, I would like to turn to the amendment that I offered. This amendment would give us the opportunity and the ability to look into the commodities trading activities that led to Mrs. Clinton making a profit of \$100,000.

There is nothing wrong with making \$100,000. But there seems to be some very real question as to how, on the initial day when she deposited \$1,000 into her account, she sold short 10 cattle futures contracts worth \$220,000. That is on the very first day of trading.

The margin requirement at that time for one cattle contract was \$1,200. To make that initial trade, Mrs. Clinton would have needed to have \$12,000 in her account. I think it is very fair to ask: If the margin requirement for one contract, valued at \$22,000, is \$1,200, how could she buy even one contract with \$1,000 on margin, let alone 10. How did that happen?

If you were a good customer, and if you had good financial resources and capabilities, you would have to have a minimum of \$12,000 in order to be able to make that purchase. Who put up the money? Did Tyson Foods take the losses, and this particular account take the wins? Are we entitled to that information? Of course we are.

The majority has repeatedly argued that we cannot look at this issue until the special counsel does his work. Well,

I spoke to the special counsel. As a result, he sent Senator RIEGLE and me a letter dated May 26. He wrote:

I have no present objection to any hearings which Congress might wish to hold on the subject * * * talking about the commodities transaction.

Let me read further:

I am responding to the two questions raised in your letter of May 23.

On May 23 we wrote a letter. And, among the other things, we raised the question of whether or not he would have any objection to us looking into this matter.

Mr. Fiske wrote:

The commodities transactions of Mrs. Clinton occurred during the period of time which is outside the applicable statute of limitations. We do not preclude looking into those transactions if circumstances develop during our investigation which would, nonetheless, make this trading relevant to our investigation. I have no present objection to any hearings which Congress might wish to hold on the subject.

So I have to ask why this second-degree amendment would make it impossible for us to go forward? Why? I have to say, Mr. President, it is because this amendment's intent is to avoid looking at anything that might prove embarrassing to the administration. It is an attempt to circumscribe and to keep a committee of Congress from doing its job. That is just simply intolerable. It is wrong. That is why we cannot accept the proposed methodology of going forward. That is why I said that Congress has really done itself a great disservice by negating a 200-year tradition of thorough and fair congressional oversight hearings, notwithstanding our tradition over the years.

We are attempting now to offer amendments that would deal with the deficiencies. One such deficiency is that there is no provision in the legislation providing us with the ability to look into the commodities trading. I would daresay any fair-minded person would say that we should examine these trades.

Did Tyson Foods, by the way, deduct losing trades illegally after a possible allocation of trades by the broker? I do not know. But I think we are entitled to those records to see exactly where the moneys came from.

This is just one illustration. There are many others. The fact is that on the very day of inception there was an account of only \$1,000, and that this account, which could not even buy one futures contract, bought 10. It cannot be done. It absolutely cannot be done. We are not talking about a corporation of great wealth saying, "Don't worry. We will send you the money later." We are talking about \$1,000 from someone who admitted they did not have great resources. This was all the account had. Yet on the first day cattle futures contracts worth \$220,000 were traded, which would have called for a minimum margin requirement of \$12,000.

Where did the money come from? Where did the profit come from? Did Tyson Foods, on that day, absorb a loss? Did Tyson buy on both sides? Were the profits then assigned to the account? Did they take writeoffs on this? Did the Clintons come into Whitewater to shelter the income that they made from the commodities transaction? It has been suggested that that may have been one of the reasons they initially went into Whitewater, as a means of sheltering the profits from the commodities trades. How much of the income from the commodities trading was sheltered by way of Whitewater? I do not know.

But again, Mr. Fiske indicated that his investigation did not encompass the commodities trades, and as a result this is an area that the committee can and should be investigating.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate vote on the Mitchell amendment No. 1783 at 2:30 p.m.; that upon the disposition of that amendment, the Senate vote on Senator D'AMATO's amendment No. 1782, as amended, if amended, with the preceding all occurring without any intervening action or debate.

The PRESIDING OFFICER. Do I hear objection? Without objection, it is so ordered.

Mr. DASCHLE. I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that pending amendments be set aside so that I may offer an amendment.

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

AMENDMENT NO. 1784

(Purpose: To authorize hearings on the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1784.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs [special subcommittee] shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association. The term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1785 TO AMENDMENT NO. 1784

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for Mr. MITCHELL, proposes an amendment numbered 1785 to amendment No. 1784.

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

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

The amendment is as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Mr. President, I believe I have a pending amendment

that has been second degreed by my friend from South Dakota, the floor manager.

I would like to speak on my amendment.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 1784

Mr. MURKOWSKI. Mr. President, the amendment I am offering would expand the scope of the Banking Committee's jurisdiction to include an examination of the Resolution Trust Corporation, or the RTC, and its handling of criminal referrals relating to the failure and the ultimate taxpayer bailout of the Madison Guaranty Savings & Loan Association.

The failure of Madison has cost the American taxpayer at least \$47 million, and estimates are now that that could exceed \$67 million. I think the American people are entitled to know why Madison failed. Why Madison was allowed to stay open as long as it did, and why there was a failure to bring civil or criminal charges in connection with this failure, recognizing that there are oversight responsibilities associated with the operation of any financial institution by appropriate State and Federal authorities. So it is legitimate that we seek these answers.

It has been 5 years since the Federal Savings & Loan Insurance Corporation was appointed conservator of Madison, and yet 5 years later the American people still have no answers concerning its failure.

Further, it was suggested yesterday by our majority leader, as well as some of my colleagues on the other side of the aisle, that the requests that we have had for hearings are designed for raw, partisan politics. It was further suggested that some on our side, the Republican side, want to hold these public hearings because we do not have a program for economic growth and we do not have a program for health care reform. In fact, many who listened to my colleagues from the other side of the aisle speak yesterday might be led to believe that the House and Senate have not considered health care and economic reform on either floor because the Congress has been tied up with Whitewater.

Mr. President, you and I know that nothing could be further from the truth. Let us set the record straight. Republican requests for Whitewater hearings have had nothing to do with the failure of the Senate or House to consider the President's health care reform.

Here is the President's health care proposal, 1,363 pages of fine print. The majority leader can bring this bill up at any time. He can add it as an amendment to this bill or any other bill, for that matter. But we all know why we are not considering the President's health care bill. It is because it cannot command a majority of Demo-

crats, much less a bipartisan majority of Democrats and Republicans. So, in reality, the fact is the President's bill as it is structured in the 1,363 pages, is dead. So is the employer mandate. And everybody knows it.

Moreover, the suggestion that Republicans do not have a program for health care is simply not true. Senator CHAFEE has introduced legislation that has both Republican and Democratic support. Senator NICKLES has introduced health insurance reform legislation. The House Republicans have introduced similar health insurance reform bills. It is just not true to state the Republicans do not have a program for health insurance reform now.

I suggest there is a bit of disarray on the other side of the aisle with regard to their uniform position on health care reform. Whitewater has nothing to do with the inability to move on health care. Whitewater and that whole issue are separate.

During the last 24 hours, on three separate occasions, the majority leader has succeeded in thwarting the efforts of Senator D'AMATO and other Republicans to broaden the scope of the Whitewater hearings. Under the majority leader's amendment, the Banking Committee would hold oversight hearings on only three issues relating to Whitewater—only three issues. One of those would be communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to Whitewater and Madison Guaranty; second, the Park Service investigation into the death of Whitehouse Deputy Counsel Vincent Foster; and, third, the way in which White House officials handled documents in Foster's office at the time of his death. That is it.

This committee will not be able to answer such questions as whether federally insured deposits at the failed Madison Guaranty Savings & Loan Association were diverted to Governor Clinton's 1994 campaign, nor will it be able to determine whether federally insured Madison deposits were diverted to pay the Clintons' share of their Whitewater debts; nor will it be able to determine, when the Madison institution became insolvent, whether favoritism, conflict of interest, or false financial audits were presented to State regulators by the Rose law firm which permitted Madison to remain open; nor will the committee be able to inquire as to whether or not Governor Clinton applied pressure to encourage the Small Business Administration to grant a loan that was not permitted to be made by the Small Business Administration.

In fact, the committee will not be able to ask a single question concerning the underlying issues surrounding the Whitewater and Madison cases. Not one single question. The committee can only examine issues, under the ma-

majority leader's proposal, relating to communications that the White House had, not the underlying fact questions relating to Whitewater. For the underlying facts, the nuts and bolts of Madison Guaranty's failure, the American public is going to have to wait 6 months, perhaps a year, 2 years, or as long as Special Prosecutor Fiske takes to complete his investigation.

It is unprecedented for the Congress to defer oversight investigations because of concurrent investigations being performed by a special counsel. We held hearings simultaneously with the independent counsel when investigations involved Anne Burford and the EPA Superfund. We all recall that. We held simultaneous hearings involving Michael Deaver and Iran-Contra. We all recall that. We held simultaneous hearings at the time independent investigations were to be conducted into the affairs of the BNL Bank and the BCCI.

So, if there is some partisan politics being played in this institution, I suggest perhaps it comes from the other side. As previously shown, we Republicans have demonstrated a willingness to support oversight hearings when they related to matters affecting a Republican administration, as I have just cited. But in the case of Whitewater, oversight will be deferred—perhaps months, perhaps years. I think it is fundamentally wrong to proceed in such a narrow fashion when the public is entitled to full disclosure.

One aspect of Whitewater that I believe must be investigated immediately relates to the RTC's handling of criminal referrals concerning Madison. I want to emphasize that this aspect of the oversight investigation will cover RTC's activities under both the Clinton and the Bush administrations.

The underlying amendment will enable the committee to investigate whether the RTC had appropriate procedures in place to refer possible criminal conduct involving Madison Guaranty and whether it had appropriate procedures in place to follow up on any criminal referrals made.

Mr. President, since the RTC was established to resolve failed institutions in 1989, we have seen the RTC resolve some 700 individual cases in some 700 institutions.

One of the greatest tragedies of the savings and loan crisis was the cost to the taxpayer. The RTC has estimated that the cost of resolving some 700 failed institutions has been over \$81 billion. Many savings and loans, such as Madison Guaranty, failed because of criminal misconduct by insiders. Part of the RTC's duties include making referrals to appropriate criminal authorities to apprise them of possible wrongdoing.

The American taxpayer, who has so far paid some \$81 billion to resolve these failed savings and loans, basically has a right to know whether the

RTC's internal procedures regarding criminal procedures have been carried out in an adequate and prudent manner.

The taxpayer also has a right to know specifically what transpired with respect to the criminal referral involving Madison. Did the RTC have adequate procedures in place to deal with criminal referrals? Were these procedures followed in the case of Madison Guaranty? It is appropriate that we have the right and the opportunity to ask these questions.

Mr. President, on September 2, 1992, the RTC made a criminal referral alleging a \$1.5 million check kiting scheme among Madison, Jim McDougal, and entities under Jim McDougal's control. The referral was sent to the U.S. attorney for the Eastern District of Arkansas.

This is material that has come out of the investigation so far. I think it is germane to the authority of the committee to expand and ask these pertinent questions, and others.

About 6 months after the referral was sent to the U.S. attorney for the Eastern District of Arkansas, in March 1993, the RTC senior investigator of Madison was informed that the U.S. attorney in Arkansas had sent this initial Madison criminal referral to Washington because the referral was politically hot.

What does that mean? We ought to know precisely what that means.

Remarkably, when the RTC investigator attempted to determine the status of the Madison criminal referral, she was told by the U.S. attorney's office that there was no record of the referral in the Arkansas U.S. attorney's office. So it took until May 1993 to determine where the Arkansas U.S. attorney had sent the referral to Washington, DC, claiming that he felt it was a conflict of interest. The main Justice Department in Washington ultimately returned the referral to Arkansas deciding there was "no basis for recusal of the U.S. attorney," and lack of conflict of interest.

Were the RTC criminal referrals regarding Madison pursued by the Justice Department? Well, in October 1993—October 8, to be exact—the RTC sent nine additional referrals to the U.S. attorney and the FBI. Two weeks later, the new Clinton-appointed U.S. attorney, Paula Casey, wrote to the RTC to indicate the referrals had been declined.

These matters involve critical questions about the RTC procedures and the manner in which criminal referrals were handled at the Justice Department.

So it remains unclear what the timing was of the Justice Department's decline of the Madison-related criminal referrals.

The committee—once the committee is established and functional—simply must investigate these matters; some

of them are new, some of them have been around—and report to the American taxpayers about how criminal referrals are handled by the RTC and the Justice Department and whether they were handled properly in the Madison case.

The American taxpayers should not have to pay one more dollar than necessary to bail out the savings and loans, and until we get the hearing process up and operational and have it broad enough so that we can address questions that will come up as a consequence of new information that comes about from the testimony of various witnesses, anything less than that is subterfuge of the investigative process with which we have an obligation to proceed.

So I urge my colleagues to reflect on the significance of my amendment to provide the American public with answers to questions that are out there. Until this body initiates a hearing process that is open and broad enough to obtain the type of information that the American public is going to demand, why, we are simply going through a meaningless process.

I urge my colleagues to support the amendment and recognize the significance of what we are attempting to do here, and that is get this entire issue resolved and behind us so that we can proceed with the public business at hand.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from South Dakota.

Mr. DASCHLE. Madam President, the Senator from Alaska made reference to what he argued was the need for broader scope in this whole affair. I would differ with the Senator from Alaska in that it is not a matter of scope, it is a matter of timing; a question of timing. That is really what a lot of this debate has been about: What is the appropriate timing?

We can get into matters of scope at some point, as we will perhaps be required to do. But as we consider what is appropriate for us now, if we are to follow the advice given us by the special prosecutor—who, again, as I indicated earlier, in his news conference earlier this spring, noted how important it was that we respect his prerogatives as an investigator, we must understand the importance of timing.

Again, let me relate to our colleagues what Mr. Fiske said:

We should be very concerned that so long as something can be done to protect against having the contents of the RTC referrals themselves come out in hearings, we need to protect scope.

That is really what this issue is all about. It is protecting the scope of the investigation so as to enable him to complete his work, that we may later do ours.

Let me relate our response to Mr. Fiske's specific concerns, outlined in

as many ways as possible in the text of the amendment that is now in the nature of a second degree to the amendment offered by the Senator from Alaska.

That amendment, which we have voted on before and on which we will do so now again, says:

In lieu of the matter proposed—

By the Senator from Alaska.

*** in the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate on a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that, in the judgment of the two leaders, they would not interfere with the ongoing investigation of the Special Counsel Robert B. Fiske, Jr.

Madam President, in essence, the amendment in the second degree to the amendment offered by the Senator from Alaska is the same amendment, the same intent, the same desire, the same hope, that has been expressed by Special Prosecutor Fiske that we do things in a timely way; that we take on the responsibilities that we agreed were necessary yesterday; that we follow through with the actions in the Banking Committee in July as we agreed yesterday; and, that any additional hearings, any additional scope, any other questions of timing relating to anything related to this issue come at a time after that. That is all we are asking—proper timing in accordance with the special prosecutor's request.

Let there be no doubt about what it is we have to do as a result of the actions taken yesterday. The majority leader's amendment lays out precisely what our responsibilities are: that hearings and oversight ought to take place regarding, first, all communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corp. and the Madison Guaranty Savings & Loan Association; second, the Park Service Police investigation into the death of White House Deputy Counsel Vincent Foster; and, third, the way in which the White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death.

We related further in the authorizing resolution yesterday that the committee shall do everything necessary and appropriate under the laws and Constitution of the United States to conduct a hearing specified in this section. It is authorized to exercise all powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate and section 705 of the Ethics in Government Act to issue subpoenas for the attendance of witnesses or the production of documentary or

physical evidence before the committee.

We make reference to the fact that the committee shall procure temporary or intermittent services of individual consultants and organizations; to use other governmental department personnel to report violations of any law to the appropriate Federal, State, and local authorities; to expend the extent to which the committee determines necessary and appropriate any money that will be made available to such committee by the Senate to conduct these hearings; to require by subpoena or order attendance as witnesses before the committee or at any deposition persons who may have knowledge or information concerning matters specified in this section to take depositions under oath; to issue commissions; and to notice depositions for staff members.

Madam President, my point is that we have very specifically delineated what the investigation ought to entail, and we have given extraordinary powers to the committee to do so—to do its work in proper sequence with proper appreciation and sensitivity to the ongoing investigation by Mr. Fiske.

That is what he asked for. That is what we agreed to do last March 17 on a unanimous vote. That is what we again reaffirmed in our vote yesterday—to do this with proper timing, to do this with an appreciation of our responsibilities for oversight and an understanding that we cannot and shall not interfere with the ongoing investigation by Mr. Fiske.

So, Madam President, we really have no choice here. Our work is very clear. Our responsibility is very clear. The amendment in the second degree gives us the opportunity to expand that responsibility should we see fit at some point in the future.

So I would hope that we all understand what is going on here. Madam President, this is not a question of scope. If anything, I think this amendment would slow down our work, confuse our work, obfuscate our responsibilities. It is important for us to understand that, with a clear delineation of scope, with a clear understanding of the authority now given to the Banking Committee, we have every opportunity to do our work in a meaningful way.

I hope Senators will recognize that at the appropriate time when we vote.

I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

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

Madam President, I listened to my good friend from South Dakota as he indicated the issue of scope versus timing. I think we ought to reflect a little bit on the record. What did we do basi-

cally in this body on March 17 when we voted 98 to 0 to initiate an action by this body to proceed on the Whitewater issue?

I quote from the RECORD, Madam President.

The majority leader and the Republican leader should meet and determine the appropriate timetable, procedures, and forum for an appropriate congressional oversight including hearings on all—

The word all, a-1-1.

matters related to Madison Guaranty Savings and Loan Association [MGS&L], Whitewater Development Corporation, and Capital Management Services, Inc. [CMS].

As we talk about timing and scope, let us look at the authority that we invested in that vote. It was an authority covering all matters. Yet, the majority leader and the Democratic majority have seen fit to indicate that somehow we should start off with a very narrow scope limited to the areas that I have outlined in my comments.

It is rather inconsistent with the procedure to get the answers so the American public can understand the facts that we should limit the scope of this.

Let us talk a little bit more about consistency. The amendment that is pending for a vote at 2:30 by Senator D'AMATO would authorize the investigation of commodity trades by Mrs. Clinton.

My colleague from South Dakota says that this is not the time that this amendment or my amendment should be taken up.

I ask unanimous consent that a letter from Robert B. Fiske, Jr., independent counsel, dated May 26, 1994, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE INDEPENDENT COUNSEL,
Washington, DC, May 26, 1994.

Hon. ALFONSE M. D'AMATO,
Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR SENATOR D'AMATO: I am responding to the two questions raised in your letter of May 23, 1994.

The commodity transactions of Mrs. Clinton occurred during a period of time which is outside the applicable statute of limitations. We do not preclude looking into those transactions if circumstances develop during our investigation which would nonetheless make that trading relevant to our investigation. I have no present objection to any hearings which Congress might wish to hold on that subject.

The White House review of Treasury documents relating to contacts between the White House and Treasury officials involves a small number of documents which will not take anyone very long to review. Because of the risk of such documents becoming public prior to the completion of our investigation, I would prefer that you defer obtaining those documents at this time. I am confident that following that procedure will not cause any delay in any hearings you may decide to hold.

Respectfully yours,
ROBERT B. FISKE, Jr.,
Independent Counsel.

Mr. MURKOWSKI. Madam President, I think this letter clearly counters the position taken by the Senator from South Dakota relative to the objection and inappropriateness of proceeding when special counsel is still working.

I read the second paragraph:

The commodity transactions of Mrs. Clinton occurred during a time period which is outside the applicable statute of limitations. We do not preclude looking into those transactions if circumstances develop during our investigation which would, nonetheless, make that trading relevant to our investigation.

Here is the part which I think points out where we have this inconsistency.

Mr. Fiske's letter reads further:

I have no present objection to any hearings which Congress might wish to hold on that subject.

So there, Madam President, you have the answer. Clearly, the independent counsel does not object to holding hearings on the matter which is the pending D'Amato amendment.

So I think we clearly have a legitimate question of when is the timing going to be right? Well, those on the other side can suggest at some point in time when the special counsel proceeds with more activity. But it is clearly not a pattern of the U.S. Senate to suggest that it cannot hold hearings while special prosecutors do their job. As I have noted time and time again, we have had simultaneous hearings going on while special prosecutors do their work.

So I just do not accept the explanation given by the Senator from South Dakota as this being a rational reason to limit the scope to the three areas that the majority leader has recommended to this body.

I encourage my colleagues to continue to ask the question: If the time is not right now to pursue the hearings in the broadest scope, and if indeed the special prosecutor cites by letter that he has no objection to proceeding with an investigation relative to hearings that Congress might wish to hold on that subject, what in reality is the argument that my colleagues on the other side continue to proclaim as justification for not expanding the hearings to include those items that the special prosecutor has no objection to. That is one of the votes we are going to take today at 2:30.

I encourage my colleagues to ask themselves whether the American public is going to be fooled by this charade—the charade is limiting the scope of the investigation—using the excuse that we cannot do anything because the special prosecutor has not completed his investigation.

I urge my colleagues to again examine what we are doing here. Just how long is the American public going to put up with this kind of activity that does not present the facts to them?

I urge, Madam President, that we ask ourselves the question of scope versus

timing and conclude it with: If not now, when?

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. DASCHLE], is recognized.

Mr. DASCHLE. Madam President, I will not belabor the point, but I think a couple of comments in response to the distinguished Senator from Alaska may be required here.

First, the Senator from Alaska made reference to our vote on March 17. While he talked about the first section of that particular resolution regarding the obligation of Congress to conduct oversight matters relating to all operations of Government, he failed to address the last section, which I am told happens frequently in reference to this particular resolution in comments made by Senators on the other side. Let me read for our colleagues that particular section, because that is really the essence of the concern expressed so often by Members here.

The hearings should be structured and sequenced in such a manner that, in the judgment of the leaders, they would not interfere with the ongoing investigation of special counsel Robert W. Fiske, Jr.

That is the final section. That is the section that I addressed as I expressed my concerns a moment ago about timing and sequence and scope. Obviously, the scope is a very important matter.

Relating to a second concern expressed by the Senator from Alaska, which is that somehow it is relevant for us to be considering expanding the scope to issues completely unrelated to Whitewater, I suspect that Mr. Fiske understood that when he responded that he had no objection because there is no relevance. Obviously, it is not difficult for him to express himself in that manner; that is, that he has no objection to things that are irrelevant. I am sure if we were to ask him today, given the revelation that Mrs. Clinton made yesterday that she once attempted to get into the U.S. Marines and was turned down, were we to want under the scope of this investigation to find out the reasons why the Marines turned down Mrs. Clinton's application for membership in that distinguished organization, we could find out. I will bet you anything that if we were to ask Robert Fiske, "Do you have any objections to our query about the rejection by the Marines of Mrs. Clinton in 1975," he would probably write back, "No, go ahead." But what relevance does that have to Whitewater? What relevance does that have to the real intent we have all so consistently expressed about our desire to get to the bottom of the questions that are pending relating directly to the Whitewater investigation? I could come up, in 5 minutes, with a number of different opportunities for us to have oversight investigations on any one of a range of things,

because that is our prerogative and we can do so. But the question is: How does that affect the scope of this matter? How does that go directly to the questions that we have before us relating to Whitewater?

The closer they get to Whitewater, the more importance that last section has with regard to timing. If it is a Whitewater issue, Mr. Fiske said, "I then become very concerned about what you do. I want you to take notice about my concerns, and I hope you will consider timing." So the reference in our second amendment really is to timing and the importance of sequence.

So I hope our colleagues will not be confused, Madam President. Any references to investigations unrelated to Whitewater certainly will expand scope, but they do not have any effect on the quality or the manner with which we ought to be conducting ourselves relating to Whitewater. I hope that these amendments and the opportunity to vote on them later this afternoon will make that clear, as well.

I yield the floor.

Madam 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. SPECTER. 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. SPECTER. Madam President, I further ask unanimous consent that I may be permitted to speak for up to 10 minutes, as if in morning business.

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

Mr. SPECTER. I thank the Chair.

LINE-ITEM VETO

Mr. SPECTER. Madam President, I have sought recognition to comment about a very interesting and important hearing in the Judiciary Committee Subcommittee on Constitutional Law relating to the line-item veto, which I believe may soon be coming before the full Senate. It is worthy of a few comments at this time to summarize some of the testimony from a very distinguished panel of constitutional law experts.

The resolution which I had introduced calls for a sense of the Senate to encourage the President to exercise the line-item veto on the legal proposition that the President currently has authority to exercise the line-item veto. That follows an interpretation of the Constitution which has been endorsed by a number of prominent legal scholars, one of whom is Prof. Forrest McDonald from the University of Alabama, who has written extensively and persuasively on the subject.

Professor McDonald is a leading constitutional expert, historical expert,

who has recently published a book on the Presidency which has been widely acclaimed. It is his analysis and the analysis of others, in which I concur, that the key clause, article I, section 7, clause 3 of the U.S. Constitution gives the President currently line-item veto.

That clause was extracted from the Massachusetts Constitution, which has as its origin the effort of the Massachusetts lawmakers, the constitutional authorities, to limit excessive spending. And clause 3 follows clause 2, which is the President's general veto authority. So that, as a matter of constitutional interpretation, this clause was added to give the President the authority to exercise the line-item veto.

In this morning's hearings, there were a number of authorities who testified on both sides of the issue, as you might expect on a controversial constitutional question. It is well known that there are splits of authority on issues like this, with the Supreme Court of the United States very frequently dividing on a 5-to-4 basis.

We know a very distinguished former Chief Justice of the Supreme Court of the United States, Charles Evans Hughes, made one of the statements which has been frequently referred to, that the Constitution is what the Supreme Court says it is. It is not quite that broad. The Supreme Court cannot pull an interpretation from the air. But there are many clauses in the Constitution which are subject to various interpretations, and when that occurs the frequent course of action is for a test case to be brought. It is my hope that we will have a test case brought and that a sense of the Senate, saying to the President we submit there is a constitutional basis for exercising the line-item veto, would be most appropriate.

For those who may be listening on C-SPAN and for those in the gallery—there are not too many Senators on the floor, only two of us; you, Madam President, presiding, and I, speaking—the line-item veto is the authority which would give the President power to strike a given line from the appropriations bill and strike a given line on any legislation which passes the Congress.

Frequently, the President of the United States will receive appropriations bills, sometimes in an omnibus appropriations bill, in the form of a continuing resolution which sometimes is a foot thick. Some of our viewers may recall one of President Reagan's State of the Union speeches, where he was complaining to the Congress about receiving enormous appropriations bills, which gave him the Hobson's choice of either signing the entire bill, where there were many provisions which he did not like, or vetoing the entire bill, which would have brought the Government to a close.

I recall one speech of the President to a joint session of the Congress,

where he had legislation which was about a foot thick, balanced—I thought precariously—on the edge of the podium. And I was worried because I thought—and probably many others watching television were worried—it was going to fall. Then I got the point. President Reagan was keeping us in suspense. He was a master of that. And he had control of that hefty pile of papers. But he was illustrating the point about a massive appropriations bill: He should not have to, in effect, take it or leave it all.

Since that time, the Congress has been better in submitting 13 separate appropriations bills. But, still they are very thick and they contain many, many spending items. It is my view, and the view of many, many others, that at the time when we have a national debt of \$4.5 trillion, and last year had a budget deficit of \$255 billion, and knowing the ways of the Congress in including many items which are excessive expenditures—the one referred to very frequently in today's hearing was a major appropriation for a tribute to Lawrence Welk—which hardly warrant borrowing.

There are many items, and Members do what they think is in the interests of their own constituents—in the House, their own districts; in the Senate, their own States—where the appropriations simply do not measure up to a standard of national importance, sufficient to borrow money on. I think that is the standard which we have to apply when we pass bills. Is this item, is this appropriation, sufficient for us to borrow money? Because, when we have a budget of \$1.5 trillion—and those are astronomical figures, hard to really quantify or understand what they mean—but against a budget of \$1.5 trillion, when the deficit is \$255 billion, that means we spend \$255 billion more than we take in in revenues—the question has to be asked, is a given item worth borrowing money for? I think, if we put it to that test, many times if we had this isolated, we would say that it was not worth paying for.

There have been many efforts to have a constitutional amendment for a line-item veto. Those efforts have failed because you have to come to a two-thirds vote. But I do think that if we voted on these items individually—some of the constitutional amendments proposed that if the item was vetoed on a line item by the President, they would come back and would have to be overruled only by a simple majority as opposed to two-thirds—I think many of those items, if exposed to that kind of specific vote, would not survive. But even if you have the line-item veto interpreted under the existing clause of the Constitution, that the Congress can still override the President's veto if we felt strongly about it. But I think many, many of those items would not be overridden on a congressional vote.

The specifics, for just a minute, on the legal interpretation, turn on the Massachusetts Constitution of 1780, adopted some 7 years before the U.S. Constitution. That Constitution had a provision which was first implemented in 1733, to give the Governor a check on unbridled spending by the Colonial Legislature which had put the Colony in serious debt. It sounds very much like the United States of America today.

That clause was lifted totally, article I, section 3, clause 7, and put in the U.S. Constitution. There is history in the *Federalist*, comments by Alexander Hamilton, who wrote that the constitutional provision tallies exactly with the revisionary authority of the Council of Revision in New York, which, according to Professor McDonald, had the power to revise appropriations bills very similar to the line-item veto.

James Madison noted the comments of Roger Sherman, of Connecticut, that "The only purpose of article I section 7, clause 3, was to take money out—was to eliminate votes which took money out of the Treasury." So that, unless clause 3 had the intent of being a line-item veto, authority for the line-item veto, there would be no purpose for the clause, clause 3, in addition to clause 2, which provided for the President's general veto power.

Madam President, I had an opportunity to discuss this issue with President Bush and urged him to exercise the line-item veto. President Bush said that his lawyer told him he did not have any authority. When he said that, I made the suggestion that he change lawyers, then I added not to tell the bar association because that might not be too good, one lawyer commenting about another lawyer and some of the rules of our profession.

I had the chance to bring the issue up with President Clinton. I wrote to him on the subject, provided an authority, got a nice reply back where President Clinton said he did not think it appropriate to exercise the line-item veto and, in fact, a representative from the Attorney General's office testified today, Assistant Attorney General Walter Dellinger, head of the Office of Legal Counsel testified that he thought the President did not have the line-item veto authority. But Professor Dellinger did say that it was a matter of which reasonable minds could differ. It would be pretty hard for him not to say that, considering the fact Senator THURMOND testified in favor of it and I testified in favor of the line-item veto and a number of others had said there was constitutional authority for the line-item veto.

So it is not a matter which has a foregone conclusion, but in the context of the very serious deficit which we have and in the context of the very major national debt which we have in this country, that there is sufficient authority for the line-item veto.

So I submit that it ought to be exercised by the President and there ought to be a court test case.

Madam President, although I have introduced this into the RECORD before, I think it is worthwhile at this point not to submit all of the documents, but to submit the article by Prof. Forrest McDonald setting forth the constitutional authority for the line-item veto so that those who read the CONGRESSIONAL RECORD will have a fuller statement as to the constitutional authority of the President to exercise the line-item veto. I ask unanimous consent to print that article in the RECORD.

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

THE FRAMERS' CONCEPTION OF THE VETO POWER

(By Prof. Forrest McDonald)

I must begin by making a couple of demurrers or disclaimers. I am by no means an expert on budgetary processes. And I have no policy recommendations to make.

What I can claim some expertise in and what I propose to address is how the Framers thought, what was going on in the eighteenth century, and what their conceptions of a number of subjects were, including the veto. When we speak of the veto power, historically and at present, we are actually dealing with two different subjects—closely, intimately related, but still different subjects. The one is executive control over spending; the other is the executive share in legislation. Historically, these were two different things.

The Framers were learned in history. They knew from Roman history of models of a veto that were derived from the ancient tribunes. But for the most part when they talked of vetoes, when they thought of the subject, they thought of British history. How things had evolved in England, how things had evolved in their own colonial experience and, to a lesser extent, their more immediate state experience since 1776, made up their thinking about vetoes.

In England, the king always had a veto, which was in the form of his power to say no. If he said no or if he didn't approve of a proposed body of legislation, it was not enacted. Thus did he exercise a share in, and a control over, the legislative power. The veto did not, however, extend to spending bills. It did not extend to spending bills because of the peculiar nature of taxation and appropriation.

Sir William Blackstone had clearly defined taxes as they had come to be understood in the English-speaking world, "Taxes," he said, "are a portion which each subject contributes of his property in order to secure the remainder." Thus, taxes in the Anglo-Saxon scheme of things, were held to be a voluntary gift from the people to the sovereign. It made no sense, therefore, for the king to have a veto power over the gifts that the subjects were giving to him. What he did have, however, was total discretionary power as to how to spend it.

As to the veto of legislation, again, Blackstone makes clear what it meant: "We may apply to the royal negative what Cicero observes of the negative of the Roman tribunes, that the Crown has not any power of doing wrong, but merely of preventing wrong from being done." That remains the way to think of a veto. In England, however,

by the eighteenth century, the veto had become pretty well obsolete. The last king actually to exercise it on a large scale was King William in the 1690s. Queen Anne vetoed one measure and that raised such a storm of protest that it nearly disappeared.

But interestingly enough, what came along in lieu of it was the Crown's control over spending. The Prime Minister, as evolved in the eighteenth century, was always a member of Parliament who, if he was in the House of Commons, was Chancellor of the Exchequer; if he was in the House of Lords, he was the Lord Treasurer. By their use of the appropriations which came into the treasury, they influenced legislation—usually in a highly corrupt way to which most Americans eventually objected. Beyond the development in England, in the colonies there was direct experience with the veto in three different ways. To understand the colonial experience, one must remember that there were different kinds of colonies; proprietary, corporate, and royal.

Two colonies, Pennsylvania and Maryland, were proprietary colonies. The Penn family and the Calvert family owned the land, and the government was whatever government they established. Two other colonies, Connecticut and Rhode Island, were "corporate" colonies; self-governing entities. The other nine colonies were royal colonies; ruled by the Crown through his agents. The governors of those colonies were always agents of the king.

Now, to some extent the experience was different in each of the three types of colonies. The royal governors did not exercise a veto at all, except in one respect, and that was then the lower house of the legislature nominated or actually appointed the members of the upper house of the legislature. The upper house was sort of a combination of today's presidential cabinet and the Senate, an upper house as well as an advisory executive council. The royal governor had a veto—line-item veto, as it were—over any one of those appointed. The royal governors were not required to accept or reject the whole slate. If there were fifteen names on a list, they could eliminate one or more.

The second kind of veto development in the proprietary colonies. Originally, under the charter of government (the Charter of Liberties) which William Penn granted to the prospective citizens or subjects of Pennsylvania, the veto was a direct copy of the ancient Roman system. In ancient Rome, the senate legislated, and the people, through the tribunes, had the veto power. Penn and his advisors proposed legislation. It went out to the people (through their tribunes, in effect) and if the people accepted it, it was law; if they did not accept it, it was not law.

By the middle of the eighteenth century, this system had changed. The Penn family, as colonial governors, or their designates as colonial governors, had come to have and to exercise repeatedly a line-item veto. They could take out a particular comma, a particular passage, a particular appropriation. The veto in Pennsylvania by then applied to both appropriations and to normal legislation and was selectively applied. It was, in other words, a line-item veto, though the phrase had yet to be coined.

In 1696, His Majesty's Privy Council created an administrative body called the Board of Trade, which came to exercise the third kind of veto. The Board of Trade reviewed all legislation passed by the colonies from 1696 to 1776. During the course of that eighty-year period the Board reviewed 8,563 pieces of legislation. The members made clear almost

from the beginning, in 1702, that the veto that they were exercising in the name of the Crown was a selective veto, a line-item veto. They vetoed all or part 469 pieces of legislation in the eighty years in which the Board of Trade oversaw the colonies.¹

The period after 1776, however, is the period of greatest interest in understanding the veto power that came to be part of the Constitution. In regard to government spending, from the very beginning and growing out of colonial experience, appropriations were always made by legislatures. But appropriations were always permissive, not mandatory. A legislature voted a sum, and the governor, or whoever was charged with spending it; but he spent it at his discretion, so there was, built into the appropriations process, a kind of selective veto. Normally, the constitutions of several states indicated that expenditures were to be disbursed at the discretion—the sole discretion—of the governor.

Francis Newton Thorpe's seven volumes of colonial charters and state constitutions provide an absolutely crucial set of documents for understanding this formative period. For instance, North Carolina's first state constitution, that of 1776, made it explicit that no money could be taken out of the public treasury except at the discretion of the governor. The Virginia constitution of 1776 said the same thing. The Pennsylvania constitution, the Massachusetts constitution of 1780, the New Hampshire constitution of 1784, and so on, all made that clear.

In practice, legislatures made large, lump-sum appropriations. Appropriations that were made by the state legislatures of Virginia, North Carolina, and New York during this period, 1776 to 1787, each had a maximum number of nine headings. That would be for the civil list and for paying veterans' bonuses or invalid veterans' pensions and the like. Still the funds were allocated in broad, blanket grants of money, and it was left to the executive authority, usually the governor, to spend as he pleased within the legislatively established limits.

In regard to the veto power over legislation, the experience of the states in the early years ran as follows. Most states were loath to provide a veto because of the reaction against executive power that was built into independence itself.² Two states did, however, provide a veto power—New York and Massachusetts—and both used the word "revision." The word "revision" is significant because the American conception of the veto power was originally a revising power, not merely a nay-saying power.³ It is also significant because in *Federalist No. 69*, Hamilton describes the presidential veto as differing from the "absolute negative of the British sovereign"; rather, its power "tallies exactly with the revisionary authority of the council of revision" of New York.

The New York Council of Revision consisted of the governor of the state and certain judicial officers, and together they reviewed all legislation that came before, or that was passed by, the New York Assembly. In fact, they reviewed it twice. The legislation was proposed, and lest anybody act hastily, it had to be read three times. Then it went to the Council of Revision, and the Council looked it over selectively, and sent it back to the legislature, not approved or disapproved in total, but with recommendations for revision. Normally the legislature would then take the proposed revisions into account and enact the bill into law. After it was enacted into law, it would come back to the Council of Revision, and now the Council had a selective veto, a line-item process.

The Massachusetts case is rather more interesting, and here one sees the background of the now famous Clause 3 of Article I, Section 7 of the United States Constitution. In 1721, the legislature of Massachusetts, seeking to get around the prospective veto of the Board of Trade, had made its appropriations for the year by resolution, not by act. The Board of Trade was empowered to review all acts of colonial legislatures, but a resolution, said the House of Representatives, was not an act. They made appropriations that way—and got away with it—until 1729, when the Board of Trade said that was unacceptable.

The House then decided to do it a different way. Rather than pass any resolutions, they undertook to pass "votes," to make appropriations by votes. And in 1730 and 1731, the Massachusetts legislature made appropriations through votes, and significantly, it also disbursed the funds by votes, getting around the royal governor as well as the Board of Trade.

Then an interesting thing happened, as always happens when legislative spending has no effective external restraint. The public debts of the colony of Massachusetts became absolutely intolerable. The colony was going broke, and by 1733, the House of Representatives decided to give the governor a check. Throughout the remainder of the colonial period, the finances of the colony of Massachusetts were kept under control because the legislators had had this earlier experience; they had learned that when legislatures are left to spend freely, they go berserk.

This background makes it easier to understand the veto provisions of the Constitution. During the Constitutional Convention of 1787, various proposals were made. Some people, Alexander Hamilton for instance, indicated early on that they wanted an absolute veto; others, Benjamin Franklin in particular, opposed any kind of veto. The Convention decided on a qualified veto. Then, on August 14th and 15th, the delegates got around to the phraseology of the veto. There was some confusion on the 14th, and on the next day, Governor Edmund Randolph of Virginia made a proposal, essentially taken from the Massachusetts constitution of 1780, to incorporate the language dealing with resolutions and acts. The idea was to control the Congress by providing for a veto against resolutions as well as acts.

The language of Article I, Section 7, Clause 3, like the first clause of the section, is taken directly from the Massachusetts constitution. Both paragraphs, like their Massachusetts prototype, were designed to prevent the Congress from running amok, to make responsibility lie in the presidency.

During the course of the contests over ratification of the Constitution, interestingly enough, there was very little comment about the veto in any way. Two Anti-Federalist tracts against the Constitution objected to the Constitution, among other reasons, because Article I, Section 7, Clause 3 made too strong a line-item veto in the hands of the President.

The only Federalist speaking in a ratifying convention who addressed the subject was Governor James Bowdoin of Massachusetts. Bowdoin spoke in favor of the veto in such a way as to suggest that he understood it to be a power of revision and, therefore, a selective power. He did not say so explicitly, but it is clear in light of the Massachusetts experience.

When the government was formed under the Constitution in 1789, and for the first two or three years, the Congress followed the

same procedure that had been followed by the colonies and by the several state governments, that is to say, it voted general, lump-sum appropriations under headings of three or four departments. The veto power was assumed to have a dual nature. One was the power of revision of regular legislation, the other the power to control or prohibit spending in particular areas. The dual nature of the veto experience of the Americans was sometimes separate, sometimes the same; but in both areas, the experience was that the negative was essentially a line-item, a specific thing.

Secretary of the Treasury Alexander Hamilton and President Washington both took the position that appropriations were, again, permissive, not mandatory. They often shifted funds around and there were considerable hassles on occasion over such shifting. Indeed, the Anti-Federalists, who now were calling themselves Republicans in opposition to the way Hamilton was running the Treasury Department, began to make investigations. They argued that Hamilton was improperly transferring funds. But Hamilton had always gone to Washington for approval. There was only one very sticky time when Washington could not remember that he had given the approval to Hamilton; but the point is that it was assumed that Washington, as President, had the power.

More interesting is the experience of Thomas Jefferson. By 1801, line-item appropriations had become something like the norm. Jefferson himself had an interesting conception of what his veto power and what his powers were in relation to finances, and it was clearly a line-item power.

In one famous instance Jefferson announced that he refused to spend \$50,000 on gunboats as appropriated by Congress. There was a good reason for Jefferson's decision in that instance. We were expecting war with Spain when the appropriations were made. Then, things cooled off. To Jefferson's way of thinking there was no longer any point in building the gunboats. That was not, strictly speaking, a reversal of the policy of Congress. It was merely a matter of seeing that the circumstances had changed and assuming that Congress would have changed also had it been in session.

On another occasion, Jefferson again used a line-item veto to refuse to expend money. This he announced in his first annual message to Congress in 1802. Congress has appropriated a considerable sum of money to build various fortifications. Nothing had changed, as it had in the other example, but Jefferson thought the fortifications unnecessary, a wasteful use of public funds. So he announced to Congress that he had decided to "suspend and slacken the expenditures." He changed Congress' policy in this regard. Jefferson sent the legislation back to Congress to be reconsidered. During this time, he held it up; he refused to spend the money for a year. Congress did not reappropriate the money. The point is that Jefferson, in his sole discretion as President, assumed he had the power to decide whether the appropriated monies should be spent or not.

It is not just at the national level where we see the original understanding behind the veto power. The experience of the states after the adoption of the federal Constitution is important to understanding the experience of the federal government for two reasons. First, what the states did immediately after the adoption of the federal Constitution is an indication of their understanding of what the veto power was and what, particularly, Clause 3 meant. A number of

states, upon the ratification of the Constitution, adopted constitutional amendments to make their constitutions square with the new federal charter. Several states adopted new constitutions from scratch. Georgia did in 1789, Pennsylvania in 1790, and Delaware in the early 1790s. Kentucky's first constitution was in 1792. Vermont revised its constitution. Tennessee got a new one, and so on. In each case, they adopted the phraseology of Article I, Section 7 and the governors began immediately to exercise the veto in a line-item fashion. That was their understanding of what Article I, Section 7 meant when they incorporated it into their own constitutions.

The second reason that the experience of the states is important is that in the states the real spending occurred. The volume of expenditure by government in the United States through the late eighteenth and throughout the nineteenth centuries was not overwhelming; the big bucks were spent at the state and local levels. As late as 1990, for example, state and local expenditures were ten times that of the federal government. In the middle of the nineteenth century, they would have run twenty or thirty times as much. Thus, if we want to know how the people and governmental institutions coped during the early years with the problem of big spending or excessive spending or whatever, we must turn to the state experience.

By the 1820s and 1830s, spending at the state level had become enormous. It had gotten out of hand because legislators had the capacity to collect taxes on a sufficient scale to spend on boondoggles—all kinds of public and quasi-public projects—and governors, except in the few states which had adopted the equivalent of the federal Constitution's line-item veto, were powerless to cope. There was a collapse cycle in government spending in the United States throughout the nineteenth century. After each major financial panic—1837, 1857, and 1873—states found themselves virtually bankrupt because of overspending, and each time this happened, there would be a new round of constitutional checks on the legislative power to spend.

One of the things that most of the states adopted at some point was a requirement that a bill which becomes an act must have only one subject.¹ Some of them went so far as to declare that every bill had to have a title, that everything in the bill must pertain to the title, and that anything not pertaining to the title was automatically annulled.

Several states required that any appropriations for what was called the civil list (the government payroll for ordinary, full-time employees) must be made in lump sums but that everything else had to be in separate and single bills. By the 1840s, the idea of a line-item veto to control fiscal irresponsibility in the legislatures was coming to prominence. It did not originate in the Confederate constitution as some have suggested. There were three Northern states which had already adopted the line-item veto before the Civil War.² It became very common after the Civil War.

The lesson that was learned in the states during the early years of the Republic was the lesson Alexander Hamilton had endeavored to teach in one of the Federalist essays. The more people there are involved in the decision-making process, the less responsible any one is, and a legislature, being a numerous body, in the nature of things, cannot restrain itself. It is so numerous as to be politically blameless. It ceases to be responsible because no one is accountable. It ceases

to exercise control over a budget. It appropriates in vague and general terms. And, while the people will eagerly vote out of office those elected representatives of the people who tax to an extreme, they will not vote them out for spending excessively.

The only way effectively to check the excessiveness of a legislature at any level, national or state, is to have responsibility vested in one person so that that one person takes all of the heat if things go out of control. That is the essence of accountability; that is the fount of responsibility.

Let me close with a quotation from Alexander Tytler, an obscure but perceptive figure in the Scottish Enlightenment. (He had a relative who was the sole author of the second edition of the *Encyclopaedia Britannica*, but he himself was a quite secondary figure.) Tytler expressed a thought which every American in the founding generation would have shared, because they knew their history.

"A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy."

This is the lesson we most need to remember today.

FOOTNOTES

¹Notice—8,563 pieces of legislation. That's all of the laws enacted by nine legislatures in the course of 80 years. That comes out to be 80 a year; that is nine laws per year. This is significant. The Framers' concept was that legislation was a simple, clear, direct and straightforward thing. It was limited. That generation did not have such things as omnibus bills.

For example, the State of Virginia ordered a man named Hening to pull together all of the statutes that had been enacted by Virginia since 1607, nearly 200 years. It took only 13 small volumes to print all of the laws of 200 years. Today, statutes coming out of Congress tend to be long, complicated and detailed.

²Though, in the Declaration of Independence, after the Preamble and when it gets down to all of the "he hates," most of the accusations against George III stemmed from the King's failure to exercise the veto power when he should have. In the Declaration, Jefferson took George III to task for vetoing certain legislation, but also for not vetoing other or parts of other pieces of legislation.

³As for the use of the word "revision," see the constitutions of New York, 1777, §III; Massachusetts, 1780, ch. 1, art. III, §1; Georgia, 1789, art. II, §10 and 1798 art. III, §10; Vermont, 1793, ch. II, §16.

⁴Some states had adopted such provisions from the beginning; see, e.g., the Maryland constitution of 1776.

⁵New Jersey Constitution of 1844, art. V, §7; Ohio Constitution of 1851, art. II, §16, P3; Kansas Constitution of 1859, art. II, §14.

Mr. SPECTER. I thank the Chair and yield the floor. And in the absence of any other Senator on the floor, I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I have spoken on occasion before about the question of Whitewater and the appropriate way that the Senate should proceed with respect to it. I have some observations to make again today as we find ourselves at a point of impasse.

I hope that the Senate can move forward on this. I think it is not particularly productive for the institution or for the country to have us tied up in the kinds of procedural wrangling that is going on at the moment. I want to make clear my position with respect to this whole question.

First, I will summarize again my overall view of the entire Whitewater question. I know that staff has been digging very assiduously into the past in an effort to come up with all of the details of what happened with respect to Madison Guaranty and the Whitewater investment, what the participation of the Clintons were, what was the participation of the McDougals, et cetera, et cetera, et cetera.

I could rehearse all of those details here, and I suppose they will be rehearsed at one point or another as this thing goes on. I am not sure that is particularly useful, although I understand why people do it.

For me, the whole Whitewater thing has come down to two basic questions. The first one—a troubling one that has been raised in the press, perhaps not in this distinct a fashion but overall—has to do with the behavior of the administration of the State of Arkansas during the period of time that Bill Clinton was the Governor.

Very specifically, the question is this: Was the governorship of Arkansas for sale during the period of time that Bill Clinton held it? Or, as some of my friends have suggested, maybe not for sale, just for rent. That is a matter of degree.

Did special interests decide to take advantage of their relationship with the Governor of Arkansas to their own benefit in such a way that would be considered unfair or improper? And was the currency with which the purchase may have been made in the form of favors for investment opportunities or, as has been raised in the case of Mrs. Clinton, investment advice?

I do not know the answer to that, Mr. President, and I am not prejudging the case, but I think it is a serious question that needs to be examined and needs to be answered.

We have in the legal system in this country two levels of proof: The first before a grand jury, the level of reasonable suspicion of wrongdoing, and the

second level, the removal of reasonable doubt. They are two steps. It is easier to get an indictment than it is to get a conviction. I think that is appropriate.

I am not suggesting, as some of my friends in the media have, that the President and his wife are due for a conviction. I think it is very clear that any case that would answer the question—Was the governorship of Arkansas for sale?—has not been answered to the point of reasonable doubt. But I do think to the grand jury threshold of whether or not there should be an investigation of that first question, enough has been raised to justify going forward.

A special counsel, independent counsel, has been appointed to go forward to examine these details out of which we can get, perhaps, the ultimate answer to the question: Was the governorship for sale?

There are those who say until the special counsel reports, the Congress has no responsibility at all to investigate this matter. And that is the crux of what it is we are debating today and have been debating for past days and perhaps will continue to debate until we can arrive at some kind of solution to this situation.

If we frame the question in the overall manner that I have proposed here, there are some aspects of this that do not fall within the purview of the independent counsel.

Very specifically, the question of Mrs. Clinton's profits in commodity trading fall outside of the jurisdiction of the special counsel.

I have a letter which was addressed to Senator D'AMATO, the ranking member of the Banking Committee, signed by Robert Fiske, the special counsel or independent counsel, in which he makes it clear that that issue falls outside of the purview of his investigation. He says:

The commodity transactions of Mrs. Clinton occurred during a period of time which is outside the applicable statute of limitations. We do not preclude looking into those transactions if circumstances develop during our investigation which would, nonetheless, make that trading relevant to our investigation. I have no present objection to any hearings which Congress might wish to hold on that subject.

I ask unanimous consent that the entire letter be printed in the RECORD at this point.

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

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE INDEPENDENT COUNSEL,
Washington, DC, May 26, 1994.

Hon. ALFONSE M. D'AMATO,
Committee on Banking, Housing, and Urban Affairs,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR D'AMATO: I am responding to the two questions raised in your letter of May 23, 1994.

The commodity transactions of Mrs. Clinton occurred during a period of time which is

outside the applicable statute of limitations. We do not preclude looking into those transactions if circumstances develop during our investigation which would nonetheless make that trading relevant to our investigation. I have no present objection to any hearings which Congress might wish to hold on that subject.

The White House review of Treasury documents relating to contacts between the White House and Treasury officials involves a small number of documents which will not take anyone very long to review. Because of the risk of such documents becoming public prior to the completion of our investigation, I would prefer that you defer obtaining those documents at this time. I am confident that following that procedure will not cause any delay in any hearings you may decide to hold.

Respectfully yours,
ROBERT B. FISKE, Jr.,
Independent Counsel.

Mr. BENNETT. Mr. President, there are those who say the statute of limitations has run. Why therefore should Congress look at it?

I return to my earlier question. Was the governorship of Arkansas for sale or for rent to special interests during the period of time when Governor Clinton held it? In that context, the commodity transactions of Mrs. Clinton are very relevant, and they are relevant today. They may not be available for any kind of disciplinary action be taken against her or her broker if indeed anything went wrong or anything was improper. But that is not the point. They are appropriate in answering the overall question because, if indeed the governorship of Arkansas was available to be purchased, this might have been the currency that was used to make that purchase. I stress again the words "may" and "might" because nothing has been proven, and we are not in any way to the point of making conclusions beyond a reasonable doubt.

Mrs. Clinton herself recognized the appropriateness of public interest in this issue when she went before the Nation in a press conference, and answered any and all questions with respect to this. She believes that her answers were sufficient that the matter should now be closed. I respect the way in which she handled herself. But I have read carefully the answers that she gave. And I think there are still areas that for her own benefit need to be illuminated further. If they cannot be illuminated in a press conference, it is appropriate that they be illuminated in a congressional investigation.

As I have said on this floor before, there is a second question which arises with respect to this. So what? Why does it concern the U.S. Senate if the governorship of a single State was handled in a way that may have transcended certain boundaries some years ago? What is the legislative purpose on the part of the U.S. Senate to investigate these kind of things? And I recall the comments that have been made in the past with respect to Senate investigations to the effect that we

should not engage in any investigation that does not have a clear legislative purpose. Indeed, there were those who tried to discipline Senator Joseph McCarthy when he was conducting his investigations by saying these may produce interesting information, but they do not lead to legislative action. And, unless a Senate investigation leads to a legislative purpose, it is not sanctioned under the rules of the Senate.

I would be happy to live by that rule if indeed it had not been repealed by precedent. In the Congress of the United States long since the time of Joseph McCarthy, the standard has been changed over and over again by precedent the Congress has demanded and exercised the right to go beyond legislative purpose in its investigation.

The most egregious example of that, which I hope we would not ever return to, was the investigation into the so-called October Surprise where millions of dollars of taxpayers' money was spent trying to find out whether or not George Bush was in Paris on a certain date. Since he was under Secret Service protection at the time as a candidate for the Vice-Presidency, it would seem to me a very simple matter to determine by asking the Secret Service to produce their logs. But the Congress in its wisdom decided that was worthy of a full investigation, and they went forward and conducted the investigation. By allowing that to happen along with other investigations that we have seen documented here on the floor in great detail, we have by precedent changed the rule.

I think it inappropriate for Members of this body to now say that since the individual who would be investigated under the rule established by the precedents happens to be a Democrat, we must go back to the old rules and say no, that is out of bounds. Once a precedent has been established, it is lived by. And I believe that the Congress under the precedent established here in the Senate and in the House over the last 10 to 12 or 15 years clearly has an appropriate role to play in this circumstance.

There is a second question which arises out of the first. Has the Clinton Administration used its position to prevent examination of the first question? As I say, the first question is: Was the governorship of Arkansas for sale or rent? Now the second question: In an effort to discourage people from answering the first question, has the Clinton administration acted improperly? Now we go to the questions that the independent counsel is examining. That is what has produced the subpoenas, the depositions, and in some cases the resignations that have occurred within the White House staff.

There are those who say it is clearly improper for Congress to examine any of that because that is within the pur-

view of the independent counsel. I believe you cannot cut this seamless web. If you are going to conduct a complete investigation, you must do it on the basis of both questions, keeping them linked as they inevitably must be, and examining them in the proper way.

So, Mr. President, I rise in support of the amendment of the ranking member of the Banking Committee, Mr. D'AMATO, who is saying let us move ahead with at least an investigation of the details of Mrs. Clinton's commodity transactions in an effort to get to the bottom of this affair.

We make a few observations about those transactions which I think will come as no surprise to anyone who is familiar with the commodities market. This also goes to why I think Mrs. Clinton's press conference, admirable as it was, falls short of the full disclosure that I think the American people were seeking when they tuned in on that Friday afternoon.

I have been involved in commodities transactions myself. I found them much too rapid for my stomach to handle. I have invested in the stock market most of my life. I bought some bonds. I dabbled in real estate. I tried commodities I think for about 2 or 3 weeks. I decided this is too fast a game for me. I am going to go back to the relative quiet of the stock market because the commodity market moves so rapidly. The margin requirements are such that you can lose everything in a matter of a few minutes. It is not something that I want to undertake on a part-time basis.

I have talked to people who have made their living in the commodities market. Indeed, they have come to me voluntarily. They have said, Senator, we believe it is highly unlikely to the point of being impossible for someone to do what according to the press Mrs. Clinton was able to do on a part-time basis reading the Wall Street Journal and making up her own mind.

The White House and Mrs. Clinton have subsequently changed the initial report that she did it all by herself. That is "no longer operative," to quote one White House staffer. But even so, in the minds of those familiar with the way the commodities market works, there is a lingering suspicion that there is still something that we have not been told. As I say, reading the answers Mrs. Clinton gave at her press conference, I find that that suspicion does not go away. Am I accusing her of illegal activity? No, I am not. I am suggesting, however, that she and we would benefit from a further airing of all of the circumstances. It is very simple, Mr. President, to get that airing, because these transactions do not take place in a corner, as it were. They take place in an atmosphere of documentation and preservation of archives.

I understand that the people at the Chicago Mercantile Exchange, where

these transactions took place, have maintained full records of every one of the transactions. People at the Chicago Merc have been asked to provide those records to the members of the Banking Committee. They have responded that they cannot do so, under their regulations, without the permission of the individual involved. I can understand that, and I can applaud that. I think it is appropriate that we have that degree of privacy for individuals involved in financial transactions. But if indeed the desire stated by Mrs. Clinton at her press conference, which was to put this matter entirely behind her, what better way to do it than to produce not her spoken version of what happened, but the available written confirmation of what happened? And if it happened and she remembers that it happened, the written confirmation will prove that. If it happened in a slightly different fashion, I am willing to grant her that her memory could be faulty this many years later, and any kind of innocent deviation between the written record and her spoken record would, in my view, be completely understandable.

However, the refusal to provide any of the written record does leave in the minds of some the suggestion that the written record might indeed be damaging to her overall case. If I were advising Mrs. Clinton, I would say: You do not want to leave that impression in anybody's mind. Review the written records yourself first, by all means, but then if indeed they correspond to what you have said to the American people, make them available to the American people, and make them available in the forum that will give you the highest credibility, which is the Senate Banking Committee. The request has been made; the request has not been responded to.

I respectfully suggest that the way to see that it is responded to, for Mrs. Clinton's benefit, as well as the country's, is for the amendment offered by the Senator from New York [Mr. D'AMATO], to pass and for the Banking Committee to be allowed to pursue its request for these written records.

Mr. President, that is really all I have to say about the substance of the matter. I cannot resist, however, since I have the floor, making a somewhat more whimsical comment in this circumstance out of a personal observation here.

I am one of those who cannot really begin the day without visiting the comics page and getting my fix from "Calvin and Hobbes" and "Doodlesbury." "Calvin and Hobbes" is currently in remission, if you will, the author of that strip being on extended sabbatical and recycling old strips, all of which I have read. And so I turn to "Doodlesbury" for my daily dose of humor.

Unfortunately, "Doodlesbury" is spending its time these days talking

about medieval church documents relating to marriage ceremonies. I regret the fact that Mr. Trudeau's politics prevents him from treating this matter with the same sense of humor that he brought to Vice President Quayle's experience with the National Guard, or President Bush's membership in Skull and Bones at Yale. Can you imagine how much fun we would have with "Doodlesbury" if Webb Hubbell had been named Ed Meese, or how much delight we would have about the actions of Mr. McDougal, if indeed his name had been Neil Bush? I can only speculate as to how much fun "Doodlesbury" and his characters would have with the White House if Nancy Reagan had fired the chief usher and the chef.

I would hope that at some point soon we would have a Republican administration so that "Doodlesbury" can once again start dealing with political matters instead of spending all of his time in medieval marriage ceremonies. I would hope that Mr. Trudeau would somehow find it in his heart to at least see some humor in the way this whole thing is playing out instead of giving us a complete blackout of his ability to skewer the important and the mighty.

I realize as I say this I run the risk of being skewered myself as Mr. D'AMATO has been, but I take solace in the fact that I am neither as important nor as mighty as Senator D'AMATO and it will take me some years before I rate any kind of a mention in the "Doodlesbury" strip.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am advised by my staff that this has been cleared, and they have been advised by Republican staff that this has been approved.

Mr. President, I ask unanimous consent that upon the disposition of Senator D'AMATO's amendment No. 1782, the Senate vote on Senator MITCHELL's amendment No. 1785; that upon the disposition of amendment No. 1785, the Senate vote on Senator MURKOWSKI's amendment No. 1784, as amended, if amended, with the preceding all occurring without any intervening action or debate.

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

Mr. MITCHELL. Mr. President, this means that there will be two rollcall votes beginning at 2:30, on the second-degree amendment which I have offered to Senator D'AMATO's amendment, and the second-degree amendment which I have offered to Senator MURKOWSKI's amendment. My hope is that if our colleagues have additional amendments, they will present them and we can put those in line for a vote as well at 2:30.

We are making little progress on this bill, and I merely repeat what I said yesterday afternoon, that we will be in session this week until we complete action on this bill and on the legislative

appropriations bill and, hopefully, on one or more nominations. It appears now that it will require a very late session this evening, at the rate we are proceeding on this bill, and a very late session tomorrow evening, and all during the day on Friday. I hope that does not occur, but I want everyone to be aware of that so that they can adjust their schedules accordingly. Finally, I encourage our colleagues that if they have amendments, it is better to offer them during the day and get some work done during the day, rather than wait and have so many amendments and votes in the evening.

So I encourage our colleagues, who I am advised do have other amendments, to come forward and offer them, and let us debate them and vote on them.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. 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. PRYOR. Mr. President, it is not appropriate for a Senator to stand on the floor of the U.S. Senate and to specifically address those in the gallery. But I do think, Mr. President, it is appropriate and I think justifiable that a Senator stand on the Senate floor and explain to those watching this performance of the U.S. Senate this afternoon and to educate the citizenry on exactly what is taking place in the greatest deliberative body in the world.

What we have before this body this afternoon is an amendment offered by some of our colleagues on the Republican side of the aisle. The contents, or 98 percent of the contents, of this particular amendment have already been dealt with and basically disposed of in another amendment offered by the Senator from New York [Mr. D'AMATO].

After his amendment basically went down, our colleagues on the other side of the aisle devised a way to basically stop all legislative business from being conducted by the U.S. Senate, attempting, second, to embarrass the administration, and, third, to make certain that no legitimate business, such as welfare reform and health care and appropriations measures that we do have an obligation to attend to, to make certain, Mr. President, that none of those important matters that truly affect every American in this country are considered by the U.S. Senate at this time.

Well, under the rules of the Senate, as the distinguished Presiding Officer fully knows, any Senator basically can stop this body in its tracks, not only with a filibuster but also with the threat of a filibuster. That is known.

That is a part of the rules of this body. Whether we like them or not, whether we agree with them or not, that basically would be the rules of the U.S. Senate.

Mr. President, this is a different situation from that. Here we have our colleagues on the other side of the aisle offering a series of amendments to take up the Senate's time, to waste the Senate's time, to waste the taxpayers' time of this body, and to make certain that we do nothing which is meaningful and constructive for this country.

The Senator from New York [Mr. D'AMATO], our good friend, our distinguished colleague from New York, has stated that this is not the only amendment that is going to be brought up in this manner; that he might have—and I think I am quoting correctly; I was not here earlier in the day—but I think Senator D'AMATO is intimating that he may have from 44 to 45 or 46 variations of this amendment.

Well, once again, for the benefit of the public, so that they will know what our rules of the Senate are, we have, Mr. President, for their information, a 15-minute rollcall vote. That is how long we have to get from our committees and our offices and our other functions and duties from around the Capitol and on Capitol Hill or our homes or wherever we might be. We have to come to the floor and we have 15 minutes to answer our name or we are marked absent.

So if the Senator from New York has 45, let us say, amendments remaining, one, I wish he would be here and offer them so we would know what they would be. Second, I wish the Senator from New York would be here this afternoon with the rest of us—there is only 1 percent, by the way, of the U.S. Senate in the Chamber at this time; the rest are gone. But Senator D'AMATO and his friends should be here, I think, offering amendments, debating amendments, talking about what he wants to do or does not want to do.

But he is absent without leave. He is a.w.o.l., Mr. President. He is gone. He has fled.

What we have here is a vote coming up at 2:30, and another following that. And then we only assume that the Senator from New York, or other of his colleagues, will start offering 44 or 45 other amendments, at 15 minutes each. At 15 minutes each on a rollcall vote, Mr. President, it does not take a rocket scientist to figure out that, from that point forward, when those amendments are offered, we are going to see the Senate in a state of total and complete paralysis. We will be doing nothing but voting. We will be voting all night and all day and all night and all day; and, Mr. President, the business of the country, the real business of the country, will be suffering.

Mr. President, what is this amendment all about and why is this amendment being offered?

It is being offered basically to delay. It is being offered by those on the other side to prevent us, as I have said, from doing anything constructive. But, more importantly, it is being offered in an attempt to embarrass this administration and to elongate this process, this very complicated process, of the Whitewater investigation.

Once again, Mr. President, for the benefit of all of us, we should all know that on March 17, by a vote of 98 to nothing, this Senate adopted a resolution which proclaimed without one dissenting vote that we were going on record in cooperating with Mr. Fiske, the special counsel in the Whitewater investigation; that we were in good time going to have a hearing and that that hearing would be one that would completely and totally comply with the other aspects of this investigation.

The reason that this side of the aisle wants to make certain that compliance is made available to Mr. Fiske and his staff is because, hopefully, we have learned lessons from the past. Those lessons from the past were that our country, even trying to exert our good intentions, even though trying to find facts and bring evidence to the forefront, actually did damage to several legal processes in the past.

I think the majority leader, in his very eloquent manner, has succinctly stated what this issue is all about. This particular issue today that we are debating is an issue that reflects a total lack of a policy or a program on the economy, on the appropriations measures that will be coming before the U.S. Senate, on health care, on welfare reform, on crime—a total lack of a policy or a program, as the majority leader has said. The only program at this point that is forthcoming from the other side is Whitewater. Whitewater. Whitewater.

How many times over the past several months have we heard Whitewater on the floor of the U.S. Senate? I am sure we will hear it a lot more. I am sure in the next days and nights of long and perhaps all-night sessions when our colleagues on the other side bring forth their 40-some-odd amendments, that we will hear a lot more discussion about Whitewater.

Mr. President, I think today we should set the record straight as to what this debate is all about, why it has been instigated, why we are here this afternoon basically doing nothing, treading time. We are talking on a treadmill, hour after hour after hour. I am afraid we are not getting any results or any advantages from it.

I hope we can talk our friends on the other side into basically a limitation of some amendments so we can pass this bill. This, by the way, Mr. President, as all of us know, is the airport bill. There

are a lot of issues encompassed, embodied in this particular legislation that affect many of the Nation's smaller airports—our communities. I am sure they are anxiously awaiting us to complete this basically nonsensical parade of amendments that have been and will be offered to this legislation so we can get on with the substance of what the U.S. Senate ought to be attempting to accomplish.

Mr. President, in just a moment, I am going to come back and seek recognition and make a very, very brief announcement. Until that time, 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. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

HONORING THE ARKANSAS RAZORBACKS

Mr. PRYOR. Mr. President, this is a very brief announcement for the benefit of our colleagues in the Senate. It gives me great pleasure on behalf of my senior colleague, Senator DALE BUMPERS, and myself, to announce that the Members of the U.S. Senate are invited at 4:30 p.m. this afternoon to room S-146 to receive and to mix and mingle with and to meet the national champion basketball team, the Arkansas Razorbacks. In S-146 we will be honoring the Razorbacks. As we speak now, the Razorbacks are attending a function, being honored by the President and Mrs. Clinton at the White House. And at 4:30 they will be here and we cordially invite all of our colleagues to come by and meet those great champions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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. The Senator from Alaska is recognized.

Mr. STEVENS. May I inquire, is it proper for me to introduce a bill at this time, Mr. President?

The PRESIDING OFFICER. It will require unanimous consent as in morning business.

Mr. STEVENS. Mr. President, I ask unanimous consent that I be able to introduce a bill and make a 30-second comment about that bill at this time.

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

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2191

are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

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

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. NICKLES. Mr. President, I rise to make several observations concerning the so-called Whitewater investigation that we are now considering before the Senate.

One is my real disappointment in the tactics that are employed by the majority leader to prevent consideration of Republican amendments, amendments that are offered on this side. Basically, most all of these amendments are to expand the very narrow scope of the investigation that is now proposed by the majority leader.

The majority leader has only three narrow areas that can be investigated. The Senator from New York has proposed 17 areas. We have amendments that would allow two additional areas to be examined by the investigation.

I have looked into a little bit of history and find that almost all the investigations that we have had and the hearings that we have had in the past have been fairly broad, as they should be. Really, when you begin an investigation, you do not know where it is going to lead, but to have one so conscripted as to not allow you to get into basic issues and answer basic questions, I think, is misleading the American public.

I think it is trying to say, yes, we are going to have hearings but, in reality, the hearings proposed by the majority leader are so narrow in scope that I do not even know why we would bother.

I have looked a little bit into hearings. I notice when we had the ABSCAM hearings, investigations, when we passed a resolution calling for it, it said "such other related matters as the Select Committee deems necessary in order to carry out its responsibilities."

In looking, in addition, to the Senate Iran-Contra Committee, the committee was given authority to,

*** investigate and study any activity, circumstance, material or transaction having a tendency to prove or disprove that any person engaged in any illegal, improper, unauthorized or unethical conduct in connection with the shipment of arms to Iran or use

of the proceeds from arms sales to provide assistance to the Nicaraguan rebels.

The Senate Watergate Committee was specifically authorized to,

* * * investigate any activities, materials or transactions which have a tendency to prove or disprove that a person engaged in illegal, improper, or unethical activities in connection with the Presidential election of 1972.

In other words, there was very broad discretion given to the committee to investigate the allegations. That is not the case in the so-called Whitewater investigation resolution proposed by the majority leader. It is conscripted, very narrow, very defined, very limited and does not allow the committee to go into other areas.

Now, some people might say this is a witch hunt but far from it. I am looking at several items, a couple of the amendments that we have pending, one of which is RTC's internal handling of Madison criminal referrals. Why should not Congress look at that? Why in the world would we even say that we are going to have Whitewater hearings if we cannot look at RTC's referral of criminal investigations?

I think that the Mitchell resolution is a sham. I think it is a coverup. I am really disappointed.

I might just mention a couple of things. One, I do not know that one party or the other party is going to maintain control of the Senate. I have only been in the Senate for 14 years. I have been in the Senate when Republicans have been in control, and I have been in the Senate when Democrats have been in control. But I cannot recall any time where we have tried to restrict an investigative committee or hearings and limit their scope as so narrowly proposed by the majority leader.

I look at other things the Senator from New York suggested we look into: The relationship between Madison and other federally insured institutions and Whitewater Corp.

Now, people are calling this the Whitewater hearings or investigation, but why can we not look at the relationship between Madison Guaranty and Whitewater?

Madison Guaranty lost millions of dollars and the taxpayers had to bail it out. I am not sure exactly how many millions but I have heard \$50, \$60-some million—millions of dollars. They lost a lot of money. They were involved in financing Whitewater. President and Mrs. Clinton owned half of Whitewater, but yet we are precluded from looking into Madison Guaranty and their operation and their connection with Whitewater? We should not call them Whitewater hearings if we are not going to investigate some of the facts pertaining to Madison Guaranty and Whitewater Corp.

As a matter of fact, in the resolution the majority leader has proposed, there

is almost no mention of Whitewater. I am looking at Senator MITCHELL's resolution. It says, "Whether improper conduct occurred regarding communications between officials of the White House and the Department of Treasury or RTC regarding Whitewater and Madison" but not really did Madison bail out Whitewater.

What happened to those millions of dollars? Were there some illegal activities? Were campaign contributions made from Madison Guaranty to President Clinton's campaign? Can those be investigated? Not under the majority leader's resolution.

There have been a lot of allegations. I am not going to repeat all the allegations. I am not saying they are substantiated. But certainly they should not be precluded from the investigation. Possibly the investigation would clear up a lot of the allegations that have been made favorably to the Clintons. They should want that to happen. We should want all the facts to be made known, be made public and really get this issue behind us. We cannot do this under Senator MITCHELL's resolution.

There are several other questions. Should we investigate the management and business activities of Whitewater including personal, corporate and partnership tax liability? Should we investigate conflicts of interest and cost controls in the representation of the RTC and other Federal banking agencies or other regulatory agencies? That is a legitimate oversight responsibility of Congress, and yet we are going to be precluded from asking questions about RTC and their oversight and possible conflicts of interest? How can we call this a hearing? I think we should be ashamed if we have so-called Whitewater hearings but we are going to have the scope so narrowly defined as proposed by the majority leader.

A couple other comments, Mr. President, I want to make and that concerns the tactics which are now employed by the majority leader in preventing Members of this side of the aisle from offering amendments. The majority leader right now—and I wish to be corrected if I am incorrect—has offered the same amendment three or four times as a second-degree amendment to whatever first-degree amendment the Senator from New York or the Senator from Alaska or a Member from this side of the aisle have offered.

The amendments that have been offered on this side of the aisle have been to expand the scope of the investigation, so it would not be a sham, it would not be a coverup. But in every case the majority leader has offered amendments that strike whatever amendment is offered on this side and inserted new language, and that new language is the same language we have already passed. And it basically says let us have the hearings, let us have

them at the end of July, let us have them conclude no later than the end of this session, and let us keep them narrowly focused to these three items. In other words, no expansion whatsoever in the hearings.

So by the majority leader doing that—he has proven he has the votes. He has had 56 votes on 3 or 4 occasions already—he is precluding this side from offering any amendment.

Now, I have been here 14 years, and I know that both sides have played the game. They will have a first degree and maybe a second degree to get a vote on their amendment. Well, the majority leader is precluding us from any votes, period. And he is using a so-called policy of prior recognition of the majority leader. I do not think that is a rule. I might mention to the Chair and I might inquire later of the Parliamentarian if that is a Senate rule. I think it is more of a Senate custom.

I will make a parliamentary inquiry. Is it a Senate rule that the majority leader is automatically recognized or is the Senate rule such that the President of the Senate would recognize whichever Senator seeks recognition first?

The PRESIDING OFFICER. The Chair responds to the Senator from Oklahoma by telling the Senator that if recognition was sought simultaneously, then the majority leader would be recognized first. Otherwise, the Senator who seeks recognition is given recognition by the Chair.

Mr. NICKLES. I thank the Chair, and that is my recollection, too, that whichever Senator seeks recognition first should be so recognized by the Chair.

I might mention I am not sure that is what is happening right now. I might also mention to my colleagues, a couple of whom are on the opposite side of the aisle and may wish to speak on this issue, that they should remember a couple of things. If the practice that the majority leader is trying to follow—and I hope not successfully—should be extended to this and other issues, then the minority party has no right to offer any amendments, or has no right to have their amendments considered because the majority will come in and offer second-degree amendments which strike or strip the first-degree amendment.

Now, that in its most narrow interpretation means, minority, you cannot offer an amendment because whatever you do, we are going to offer a second-degree amendment, even if we have to pass the same amendment 10 times or maybe 17 times. Or the Senator from New York has 47 amendments. Maybe we are going to spend 3 weeks on this bill because the majority leader wants 47 votes on his amendment. But some of us feel very strongly. We think it is important to have a Whitewater investigation. We think it is important to have a decent investigation, not a

coverup or a sham and have it have some authority to look into serious issues.

But I will tell my colleagues that I think it is even more important that we have the minority rights respected and not have a parliamentary procedure where basically, if you are in the minority party, your amendments are not going to be recognized.

I mention this for a couple of reasons. One of my colleagues on the other side may well be in the minority. I happen to be one who kind of believes in fighting for the rights of the minority. It is one of the good things about being in the Senate. This is not the House of Representatives. I do not want it to be the House of Representatives. The minority has very little authority or very little opportunity to offer amendments in the House. I think that maybe should go under review. They are looking at trying to get us to change our rules concerning extended debate. I think they might look at their rules and allow the minority to offer some amendments.

But that is not my purpose in speaking today. My purpose is to say: Wait a minute. We should not get into a procedure where we allow, in effect, the majority to automatically recognize themselves for the purpose of offering second-degree amendments, precluding the minority from offering and having votes on their amendments.

Some of us, I might mention, are going to be willing to spend a little time to try to protect minority rights so we can offer amendments. It may be on this bill. It may be on some other bill. But we should not find ourselves in a situation where no matter what the amendment is, no matter how meritorious, we are not going to get a vote on it because the majority leader or his designee says no, we are not going to have a vote on that; we will just have a vote on our second-degree amendment.

I think if we fall into that pattern, that is a serious mistake and a real loss to the Senate as an institution, as a legislative body. I just hope we do not allow that to happen. I hope we do not set the precedent for that happening on this particular issue.

One final comment. I see two of my colleagues wish to speak. Whitewater is important. It is important that we get the facts out. It is important that we have the hearings and we get all these issues resolved. There is no way in the world we can get it resolved with Senator MITCHELL's resolution. I hope the press has a chance to look at what little his resolution calls for as far as the investigation. If they can call that an investigation in good conscience, I think they are sadly mistaken or misled.

I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, I was listening intently to my good friend, Senator NICKLES from Oklahoma. If my memory serves me correctly—I think it does, and I hope it will—last week, in negotiations with the Senator from New York [Mr. D'AMATO], with regard to a potential series of amendments that would be offered by the Senator from New York and/or Senators from the other side of the aisle relative to the Whitewater investigation, it is this Senator's understanding that the Senator from New York was offered the opportunity—I repeat, that the Senator from New York was offered the opportunity—by the majority to have any and all of the amendments that he would bring forth before the Senate to be disposed of by an up-or-down vote. He had one amendment, according to good information, that encompassed everything, and that he is now bringing separate, I say before the Senate at this time.

So Senator D'AMATO from New York had an opportunity to have an up-or-down vote.

Mr. NICKLES. Will the Senator yield?

Mr. PRYOR. I will be glad to yield.

Mr. NICKLES. To get a definitive answer, I think you may need Senator MITCHELL and Senator D'AMATO. It is my understanding that Senator D'AMATO was not offered the opportunity to have a vote on his amendment without it being subject to second degree by the majority leader, and also was not offered the opportunity to have individual second-degree amendments to expand the scope of the investigation.

Mr. PRYOR. Mr. President, let me respond to my friend from Oklahoma. Fine; if we want to get any confirmation from the majority leader and the Senator from New York, that is fine. It is my understanding that the proposal was put to Senator D'AMATO that if there was a resolution considered, if a resolution were considered, that there would be an up-or-down vote on the resolution offered by the Senator from New York.

To me, this is a very fair balance. It was something the majority offered to the Senator from New York. The Senator from New York turned this proposal down. Therefore, it only makes sense that every time the Senator from New York now offers an amendment which takes out one little segment at a time—we understand he has 45 amendments left to go—that it is only natural that from this side of the aisle, we would attempt to second-degree these amendments.

The Senator from New York had that opportunity. He turned that opportunity down, and therefore put himself and the Senators on the other side of the aisle in the condition or in the pre-

dicament, you might say, that the Senator from Oklahoma is now referring to.

Mr. President, we are going to vote, I understand, in about 5 or 6 minutes. But on a related matter, the Senator from Oklahoma was talking about a huge loss by the Madison Guaranty. I think the loss, Mr. President, was \$46 million. To me, that is a huge loss. That is a lot of money. No one is proud of that loss. But I say to the Senator from Oklahoma that if he wants to investigate Madison Guaranty for a \$46 million loss, then why do we not go ahead and investigate all of the S&L's in the State of Oklahoma that lost 100 times that much? Why do we not just include those in the resolution, and investigate those criminal referrals, if they were, and all of the activities surrounding RTC and the failed S&L's in the State of Oklahoma?

I think that might be a fair proposition. What is good for the goose is good for the gander.

So if we are going to enlarge the scope, let us go ahead and go full blast with it.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I was presiding for an hour and listening to some of the discussion on the floor. When people talk about minority rights in the Senate, I would observe for all who watch the Senate proceedings that the minority rights include the ability since last Thursday, and now it is Wednesday, to prevent the Senate from doing virtually anything. For those who wonder what the Senate is doing, it is considering a bill reauthorizing the FAA, which has to do with building airports. But is that what we are discussing since last Thursday? No, we are not. The minority has the right to do what they are doing.

So when someone stands up and says somehow minority rights have been abrogated, I think what a lot of nonsense. The minority rights have not been abrogated. We are tied up precisely because they are exercising the right they have on the floor to prevent the Senate from moving on the bill that is on the floor.

I said last week—and I think it bears repeating—that we live in a time when scandals are jet propelled. Any scandal gets wings of its own through the media and through the political system. We have a sophisticated political system now in which its participants understand it is far easier to motivate people to be against something than for something. What is happening—and it is happening with this discussion about Whitewater—is that we use careless language; we use innuendo. Mark Twain once said, "A lie travels halfway 'round the world before the truth gets its shoes on."

I think we ought to figure out what the facts are on Whitewater. We have a special counsel appointed, a Republican, investigating Whitewater. We have agreed to hold hearings on Whitewater. None of that is an issue. That is not what this is about. This is about politics out here on the floor of the Senate for 5 days, holding up the important business of the Senate.

Lest anybody wonder, may I remind some of where we are in this country? There are 23,000 murders a year; 110,000 rapes in a year; 1.1 million aggravated assaults in America in a year. We have 10 million people out of work and 25 million people living on food stamps. We have 35 to 40 million people with no health insurance. We have 4 million babies born a year in this country, and 1.25 million are born without two parents present.

Does anybody think much about these problems which we face? Or are we going to be content to tie this body up in knots over Whitewater?

I would not encourage those who say, well, Whitewater is unimportant and we have too many important things to consider. It is not unimportant. But that is not the way it is being treated. We have a special prosecutor. And we have agreed to hearings.

Let us not use Whitewater as a political circus to obscure and delay dealing with all of the other issues that confront us in this country. Let us get to the facts and get to the bottom of Whitewater—and we will, and we should. But let us also get to the business of the U.S. Senate in dealing with some of the other crucial problems we face in this country.

I inquire of the Chair, is the vote on hand at 2:30?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. I yield the floor.

VOTE ON AMENDMENT NO. 1783

The PRESIDING OFFICER. Under the previous order, the question now occurs on amendment No. 1783 offered by the Senator from South Dakota [Mr. DASCHLE] for the majority leader.

Mr. PRYOR. Mr. President, I ask for the yeas and nays on amendments numbered 1783 and 1785, en bloc.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 140 Leg.]

YEAS—56

Akaka	Boxer	Byrd
Baucus	Bradley	Campbell
Biden	Breaux	Conrad
Bingaman	Bryan	Daschle
Boren	Bumpers	DeConcini

Dodd	Kerrey	Nunn
Dorgan	Kerry	Pell
Exon	Kohl	Pryor
Feingold	Lautenberg	Reid
Feinstein	Leahy	Riegle
Ford	Levin	Robb
Glenn	Lieberman	Rockefeller
Graham	Mathews	Sarbanes
Harkin	Metzenbaum	Sasser
Heflin	Mikulski	Shelby
Hollings	Mitchell	Simon
Inouye	Moseley-Braun	Wellstone
Johnston	Moynihan	Wofford
Kennedy	Murray	

NAYS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

So the amendment (No. 1783) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1782, AS AMENDED

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment numbered 1782, as amended, offered by the Senator from New York [Mr. D'AMATO].

The amendment (No. 1782), as amended, was agreed to.

AMENDMENT NO. 1785 TO AMENDMENT NO. 1784

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to amendment numbered 1785 offered by the Senator from South Dakota [Mr. DASCHLE] for the majority leader, Mr. MITCHELL.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Louisiana [Mr. BREAUX] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 141 Leg.]

YEAS—55

Akaka	Dorgan	Kohl
Baucus	Exon	Lautenberg
Biden	Feingold	Leahy
Bingaman	Feinstein	Levin
Boren	Ford	Lieberman
Boxer	Glenn	Mathews
Bradley	Graham	Metzenbaum
Bryan	Harkin	Mikulski
Bumpers	Heflin	Mitchell
Byrd	Hollings	Moseley-Braun
Campbell	Inouye	Moynihan
Conrad	Johnston	Murray
Daschle	Kennedy	Nunn
DeConcini	Kerrey	Pell
Dodd	Kerry	Pryor

Reid	Sarbanes	Wellstone
Riegle	Sasser	Wofford
Robb	Shelby	
Rockefeller	Simon	

NAYS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

NOT VOTING—1

Breaux

So the amendment (No. 1785) was agreed to.

VOTE ON AMENDMENT NO. 1784, AS AMENDED

The PRESIDING OFFICER. Under the previous order, the question recurs on amendment No. 1784, as amended, offered by the Senator from Alaska [Mr. MURKOWSKI].

The question is on agreeing to the amendment.

The amendment (No. 1784), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand there are some other items about to take place. I will not take long with my colleagues.

A friend called me last night from Vermont and asked: "What in heaven's name is going on in the U.S. Senate? I watch this march up the hill, down the hill, up the hill, down the hill on the same issue over and over again."

He said does anybody think that they are getting some kind of credit with the public by constantly raising the issue of Whitewater when they know that there is a special prosecutor looking into this subject, when they know there is going to be, by resolution, that we voted 98-0 for oversight hearings.

We are going to have such a hearing. We are going to have such an investigation. He said, "Could it possibly be that there are some who do not want you to reach debates on bills involving the airports in the United States, appropriations bills, health care, or other issues?"

He said, "What in heaven's name—what is this costing?"

I said, "Well, actually hundreds of thousands of dollars by the time you figure in the cost of everybody from staff to those who run the Senate to the printing of the RECORD to say the same thing over and over again."

He said, "Frankly, it makes very little sense."

I mention this, Mr. President, because my friend is a Republican and a partisan Republican. He cannot see why in heaven's name this constant drumbeat on the attack of the President on an issue that is going to be determined one way or the other goes on at a time when we ought to be carrying out the real business of this country: health care reform; vote for it or not. We hear some say they intend to filibuster any kind of health care reform. He is frankly very disturbed by this.

It is kind of manufactured gridlock. He said we may disagree on certain issues, and he and I disagree on a lot of issues, but vote them up or down. One side wins, they win; one side loses, they lose. But this manufactured gridlock is what it is; it is a partisan manufactured gridlock and, frankly, in my 20 years here with five different Presidents—Republicans and Democrats—with the Senate controlled at one time by Democrats and at another time Republicans, I have never seen anything like this in 20 years where you have manufactured gridlock day after day after day.

We are here to be the conscience of the United States. Being in the Senate should be a great honor. We ought to be able to rise above petty partisan politics and do the Nation's business. We are given 6-year terms. There are only 100 of us to represent 260 million Americans. Frankly, to use the Senate not to do the Nation's business but to try to score incremental, petty, pica-yune, partisan points does nobody any good. It does not do the Senate good. It does not do the country good. We ought to stop this baloney and get on with the Nation's business. I have respect for the special prosecutor, a well-known Republican. Nobody questions his integrity. And frankly, as a former prosecutor, if I was in that position as an investigator, I would not want a legislative body muddying up the waters while I am trying to figure out what is going on.

Mr. President, we ought to call it for what it is. It is a partisan charade that has gone on, frankly, long enough. And the American people ought to ask each one of us which one of us is willing to go forward with the Nation's business. Lord knows, there is plenty of that business to do.

I thank the distinguished Senator from Kentucky, who stepped aside for me to be recognized, and I yield the floor at this point.

AMENDMENT NO. 1786

(Purpose: To require Whitewater hearings to begin no later than July 15, 1994)

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1786.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, for purposes of conducting such hearings and related activities of the Committee on Banking, Housing, and Urban Affairs required under this Act, such hearings shall begin on a date no later than July 15, 1994.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1787 TO AMENDMENT NO. 1786

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1787 to amendment No. 1786:

The amendment is as follows:

Strike the matter proposed and insert the following:

Notwithstanding any other provision of this Act, for purposes of conducting such hearings and related activities of the Committee on Banking, Housing, and Urban Affairs required under this Act, such hearings shall begin on a date no later than July 29, 1994, or within 30 days after the conclusion of the first phase of the independent counsel's investigation, whichever is the earlier.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I had discussed privately with the distinguished Senator from Mississippi the possibility of a time agreement with respect to a vote, and I inquire is the Senator prepared to do that now or would he prefer to wait for a moment?

Mr. LOTT. If I may respond to the majority leader, we do need to make just a couple checks. I think that is a reasonable time. As I indicated, I would be happy to agree to that. I think 4:15 would be fine. But we would like to make a couple checks, and maybe we could make that request in just a few minutes.

Mr. MITCHELL. I thank my colleague.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. A question was asked, what are we doing here? I think that is a legitimate question. I would like to know that. I do not think it is necessary for us to be here having these amendments one after another. What we want is a reasonable agreement of how and when hearings will go forward on the so-called Whitewater matter. That is what the Senate voted on March 17, 98 to 0. We said we would have hearings and that our leaders would meet, respective leaders of our two parties, and try to work out the details.

Well, they did, over a long period of time, but no agreement was reached. No agreement was reached over, I guess, approximately 100 days. That is how we got to this point. In fact, I guess you could say that something has already been accomplished in that there will be some kind of hearings based on what Senator MITCHELL offered and on what the Senate voted. But I am not sure there would really be any hearings under the resolution passed. We cannot participate in a charade, a sham, that so tightly constricts what the scope of these hearings would be, so limits who the witnesses could be, so compacts the time that would be available for these hearings. That is not a logical solution.

I agree we should not be here. Our two respected leaders should get together off the floor of the Senate and come to an agreement with which we all can live. It would be very easy. I suspect there are a lot of Senators on both sides of the aisle who are scratching their heads thinking, yes, I think maybe they could come to some agreement.

Now, I do not propose this as a solution, and I know there are a lot of ramifications involved, and I realize there are some rights that Republicans would like to have that are just fundamentally not going to be given to us, but could we at least agree on a couple of things? Could we at least agree that the scope has to be broader than the very narrow three points included in the majority leader's resolution? We have talked about this a great deal, but it limits what the hearing could do to only three areas: Communication between officials of the White House and the Department of Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings & Loan Association. That is (A). (B), the Park Service Police investigation into the death of the White House deputy counsel Vincent Foster. And (C), the way in which White House officials handled documents in the office of White House deputy counsel

Vincent Foster at the time of his death.

That is it. The argument would be, well, that is all the special investigator or prosecutor, Mr. Fiske, is working on now and we could not get into these other matters because at some subsequent point he may get in some of these other matters. Maybe he will be through with these three and we could have a very tight, limited, narrow hearing on just these points because maybe he will be doing some other things and we will not want to in any way get in his hair with his investigation.

Time and time and time again the Congress has summarily rejected that sort of thing. We have had and we could have a hearing that would not interfere with Mr. Fiske's investigation. There are many areas that could be covered. He has already specified—in an earlier vote today—on getting into the question of the cattle futures investment by the First Lady. He has indicated he was not going to be investigating that.

It would be OK if some legitimate questions were asked about that. But, oh no, the majority said you cannot ask questions about that. Just now the Murkowski amendment—it looks to me like his amendment which was once again defeated basically on a party line vote—clearly, it looks to me like what he was asking for was covered under the resolution we passed March 1994, March 17, 1994. That resolution said 98-0 that leaders would get together on appropriate timetable procedures and forum for an appropriate congressional oversight including hearings on all matters related to Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services, Inc.—“all” matters related to, not so tightly defined in scope as those in the majority leader's resolution.

Senator MURKOWSKI had an amendment that would authorize hearings on the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings & Loan Association, clearly, within the scope of what the resolution said we passed on March 17, 1994, 98-0. Should we not at least be able to or are we not expected to ask questions about what happened to criminal referrals? Why would they be dealt with over weeks and months? At a minimum, we should be allowed to do that. But, no, no, the Senate is not inclined to go along with that either.

So leaders clearly have not reached an agreement with regard to scope. This has got to be greatly expanded. We are dealing with grown men and women here, my colleagues. The Banking Committee or whatever respective committee will do a responsible, fair, and reasonable job. I am astounded that we would say in the Senate that

we are going to limit it to the only one committee. What about the jurisdiction of the Agriculture Committee? What about the jurisdiction of the Small Business Administration Committee?

There have been allegations—mind you, only allegations—but allegations which should, must, and will be investigated in hearings at one committee or another. But are we all just abdicating our constitutional responsibility? No hearings in the Small Business Committee, no hearings in the Agriculture Committee, no hearings, no hearings on Whitewater anywhere but in Banking, and, oh, by the way, only in these three narrow areas?

The American people see through this. This is a stonewall. This is a requiem for a stonewall. This is how you design in advance the death music of a hearing. That is what is involved here. This is an effort to guarantee that there will never be full hearings into the Whitewater-related matters. So far it has been successful.

But surely leaders could get together and say, look, this scope is too narrow. It will take time to get into it. You cannot begin a hearing—you cannot say we are going to have a resolution passed today, we will begin it next week. It takes time to get into it. You have to have staff. You have to talk to Fiske. You have to get a lot of investigation, a lot of paperwork. It takes time. But you have to get started. We are not started.

Expand the scope, No. 1.

No. 2, allows enough time for a somewhat reasonable job to be done. This resolution does not do that. It does not. It is a prescription for the death of a very brief hearing.

As I understand the language in the leader's resolution that passed—it was added to this bill—on the timing, this is what it says:

The hearings authorized by this title shall begin on a date determined by the majority leader, in consultation with the minority leader, but no later than the earlier of July 29, 1994, or within 30 days after the conclusion of the first phase of the independent counsel's investigation.

I think what that says is maybe sometime between June 29 and, the truth of the matter is, August 1 these hearings will occur. You might say, wait a minute. It says July 29. Let us just look at July. July 29, red letter day under this resolution. It is a Friday. How many here think that we will begin hearings on a matter of this importance on a Friday? It is not going to happen.

I heard it used a couple of days ago, I believe on the floor of the Senate: Well, it would begin not later than July 30. A Saturday? When is the last time you remember a Senate committee having a major hearing on Saturday? Maybe they did during the October Surprise—that was important—our

Iran-Contra. But that is not very likely.

What you are really talking about is August 1. That is the goal. That is the plan. These hearings will begin, if ever at all, on a very limited scope on August 1. So I will come back to that in a moment.

The leader might say, well, maybe it appears that Mr. Fiske is getting at the end of this phase of the investigation. He is taking sworn testimony from the President and the First Lady. And it looks like maybe he is wrapping it up. Maybe he will wrap it up by, I do not know, another week or so. Then within 30 days after that, let us just say maybe he wraps it up next week, the 22d or the 24th. I guess conceivably you could get to the hearings sometime around the 25th or 26th of July. I think it is very unclear. I mean Mr. Fiske is taking his time. That is the way it should be. He has a job, an important job, a serious job. We do not want to rush him too much. But we have a job to do, too. We can do our job without interfering with his job.

But if the leaders would sit down and agree to a reasonable amount of scope and for an earlier time for this matter to begin, we could get an agreement that would be acceptable, we could go forward with the hearings, and we would go forward with this bill.

But it has gone on too long now. I fear that the true intent is to have no real hearings, only a little 2-week period on phase 1. And the truth of the matter is we will not get to the second phase of the hearings. I will talk about that with the use of the calendar here in a minute.

Let me quote from a great American with regard to another hearing but one that I think is applicable here. Upholding a standard of congressional hearings that are thorough and fair is not new. When the hearings were held on Iran-Contra, this is what Senator MITCHELL, the majority leader said:

We have a solemn responsibility to present all the facts, to bring the full truth to the American people as thoroughly and as fairly and as promptly as possible. It is now time to begin the process for laying the facts before the American people. If when we finish these facts and these hearings they know the truth, we will have been successful.

I think that applies here. We have been dithering around on this for months now. Nothing has happened—no hearings, even very few normal oversight hearings. It is time—now, not in 6 weeks—to begin the process of laying the facts before the American people. I really think the President is entitled to that. Let us get this matter investigated and get it over with.

If we finish the hearings and the American people know the truth, then we will have been successful. We have a constitutional responsibility to go forward with this, and we have not been doing it.

My amendment is very simple. It would just require Whitewater hearings

to begin no later than July 15, 1994. Why can the leaders not get together and agree? That is the reason we are going through this exercise, because they will not come to a reasonable, responsible agreement. They could end this any time they want to, if they will get together and make that decision. Let me go back over the calendar and make my point about what is really going on here.

This is not a new issue. Whitewater and all of its tentacles has been talked about, discussed; the American people have heard a lot about it. Whitewater has become a watchword for a lot of things not even in Whitewater. It has been around a long time. Under pressure, the Senate did vote on the resolution March 17 and said we were going to have hearings on all related matters, and our leaders were going to get together and agree on procedures, time, and so forth, and the committee will do it. It was 98-0.

What happened after that? The leaders, I guess, talked a little bit and exchanged some letters. I do not know what they said. It is not my place to know. I am sure they were working in good faith but just could not come to an agreement. So the rest of March went by.

April. Nothing. No red-letter days in April, no agreement, nothing.

May. No agreement.

By the way, for those saying this is interfering with the business of the country, we were working all along. The Senate has not been doing anything on Whitewater hearings. We have been having legislation right along. But again, in May, no agreement.

Finally, in frustration, the ranking Republican on the Banking Committee said, "We have to bring this thing to a head. There has to be an agreement." That is why we are right here on June 15. It has been 3 months since that vote of 98-0—March, April, May, and half-way through June. Nothing is scheduled in June. No hearings. No preliminary preparation. No staff arrangements. No hearing room. No hearings—that is the plan—or very limited ones.

So are we finally going to do something? Well, we will have the Fourth of July work period. We will all be home for our Fourth of July events.

Finally, it may be earlier, but not later than July 29 when the hearings will begin. That is the end of the month of July, 6 weeks from now—6 weeks from now—they will supposedly start to get ready, or maybe they will begin hearings. Maybe Fiske will have gotten through earlier and they will have started preparations. But my guess is that there will be no real hearings before the week of August 1. That is very significant. Not only have we now compressed the scope to three narrow areas; we are now compressing the schedule to no more than 10 days. Maybe you can say 2 weeks, but the

truth of the matter is it would be the 1st through the 5th and 8th through the 12th—2 weeks, a very limited, narrow scope, very little time to prepare for getting into the serious questions that are hanging out there as allegations. And then on August 12, the Senate, the Congress, will go out for the August recess period.

We will be out the rest of August, and the first 11 days of September. Supposing we are going to come back in on the 12th, but we have a religious holiday on the 15th, so it is going to be pretty hard to see much happening in there. And so you only have 3 weeks before we are scheduled to adjourn for the year for the elections. So even if they were going to have some more hearings after the August recess period, again it is limited to probably somewhere around 3 weeks. And then what happens? That is it. Elections are the 8th. Are we going to have a lame duck session and come back to have hearings on Whitewater? I do not think so.

And then also the majority leader is going on his great reward. He will not be here next year. When he said yesterday, well, look, this is just the first round, it is limited in scope and it will only be these three areas. So we will not interfere with Fiske, and we can have hearings limited in those three areas, and after that, we will have a second round of hearings.

When? When are we going to do it? Is the second round going to come in September? If it is, that means that the first round will have been completed in only 10 days, the first 2 weeks in August. So the idea is to do that in 2 weeks there, and to have a second round when Mr. Fiske completes all of the rest of his work. Will he be through in September? If he is not, we are not going to have a second round, not this year. And the majority leader will be gone next year—I am sure having a grand time doing a great job at whatever he is doing.

So I fear that this is a requiem for the death of real hearings. This is a prescription for 2 short weeks of limited scope, and that is it. Will we ever get to the second round? Will there ever be full, complete hearings on a number of other related matters, as described in the resolution that was passed March 17? I do not think so.

Believe me, I am not advocating this, but I look at the calendar and the resolution, and I do not see how they fit, how we can do it. We have all these issues the leader wants us to take up. We have five or six appropriations bills that we need to do before the Fourth of July period; we have striker replacement legislation pending; we have a telecommunications bill pending; we have a water resources bill pending; we have defense authorization pending; we have health care and welfare, all of them. They are good and important is-

ues that we ought to take up and get done. In fact, some of them we must get done. All of the appropriations bills and defense authorization and, hopefully, a number of others.

So I do not see how it happens. That is why I offered my resolution. I hope that the leader will, in his generosity—and he is always very cooperative, and I mean that sincerely—say that is not a bad idea. Let us just back it up a couple weeks and get the ball rolling. The chairman of the Banking Committee and the ranking member can tell you that you could not start from ground zero in a week or two. With the resolution we pass and the narrow scope, nothing is going to happen. It would be such a restricted sham of an exercise, people are not going to participate, because they know how restricted and how limited it really is.

So could we not at least back it up a couple of weeks? Just a couple of weeks. I am not asking for the Moon. I am just asking for instead of 2 weeks right before the August recess, right when we always break out in a sweat because it is hot and humid outside, but also because we have a lot to do and little time to do it, with appropriations bills one right after the other, let us back it up to the 15th of July.

That would give us this 2 weeks in late July and the first 2 weeks in August for the first phase, but a first phase certainly broader than what is in this limited resolution we have.

Now, I hope there will be a second phase. Perhaps that could come in September. Maybe we could go ahead and agree on that. We will have the first phase the last 2 weeks in July and the first 2 weeks in August, and we would go to the second phase as soon as we come back in September.

But that is all I am really asking. When I look at the resolution and I look at the calendar, it is obvious to me what is afoot here. Limit the scope, limit the time, and hope that the issue will just die and wither away.

We do have a constitutional responsibility. The time is now to begin to exercise it. I think it ought to begin, really, June 15, today, June 15. But let us give it a month to get ready, to get the leaders to agree on all the details, to let the committee begin to get their staff lined up, and to allow Mr. Fiske more time to wrap his work up and report. So I am trying to be reasonable and fair, but to guarantee we have at least a month to work on this issue.

Again, I invite the distinguished majority leader and the Republican leader to take this cup from our lips, get together, and come to an agreement. Let us do this thing. Let us do it now. Let us not wait a month or 2 months or forever.

Mr. President, I see the leader is on his feet, and I am sure he has lots he would like to respond to, so I will yield the floor at this time.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, the Senator from Mississippi has spoken for 25 minutes and has had no response from our side. If we were to have a vote at, say, 4:20, may I ask that that time be divided, 8 more minutes to the distinguished Senator from Mississippi and 20 minutes on our side, giving him a total of 33 minutes and us a total of 20 minutes?

Mr. LOTT. That sounds all right. We have checked and there is no objection to getting the vote at a specified time. I think 4:20 would be fine.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that a vote on the Mitchell amendment now pending occur at 4:20 p.m.; and that immediately following that vote, without any intervening action or debate, a vote occur on the underlying amendment, as amended, if amended; and that the time between now and then be divided, 8 minutes under the control of the Senator from Mississippi and 20 minutes under my control or that of my designee.

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

Mr. MITCHELL. Mr. President, Senators should be aware, and I ask the staffs on both sides to notify Senators' offices, that a vote will occur at 4:20.

Mr. President, I would like to make a few comments in response to the Senator's remarks, which I found very interesting.

The first point to make is that all of this supposed rush to get hearings by the Republican Senators is inconsistent with the delaying tactics they are using. We were ready to vote on this matter last Thursday, and although the Republican Senators proclaimed loudly that they want to have a vote on Whitewater and they want to have hearings on Whitewater, they prevented a vote from occurring for 5 days. If they had not engaged in the delaying tactics in which they are now engaging, we could have voted on this matter last Thursday and the Banking Committee could be getting ready for hearings. They would have been under instructions to do that which the Senator from Mississippi says he wants them to do, or that which he is preventing them from doing by participating in what is obviously a filibuster by amendment.

So what we have on the one hand is a group of Republican Senators saying over and over again they want to have hearings on Whitewater, and then doing everything possible to prevent the passage of the legislation that would permit the preparation for the hearings and require the hearings to be held.

Why is that, one would ask? Why would Senators say one thing and do another?

That is because what they say is not what they really want. They are not interested in hearings. They are not interested in serious investigation. They are interested in a forum to attack the President and Mrs. Clinton. They are interested in creating a political circus to inflict as much political damage as they can on the President and the First Lady of the United States.

The American people know that. The polls show consistently that more than two-thirds of Americans, as many as 70 percent, believe that the Republicans are doing this for political purposes. There is no serious intent here, and what is happening in the last 5 days demonstrates that. We have had 5 votes spread over a couple of days on the same issue over and over and over again, trying to delay that which they say they want done.

Now, I listened with amusement to the remarks of the Senator from Mississippi about the upcoming recess. A neutral observer might have understood that to be a complaint about so many recesses. But from my experience, the Senator from Mississippi has been a very vigorous critic whenever I have suggested delaying recesses or staying in session during otherwise scheduled recess periods to do the business before us. And so we can get this done in a proper, orderly way, if our Republican colleagues will stop stalling, let us have a vote. Let us get the hearings on track.

On March 17, the Senate voted 98 to 0 to conduct hearings in such a manner. It said:

The hearings should be structured and sequenced in such a manner that in the judgment of the leaders, they would not interfere with the ongoing investigation of special counsel Robert B. Fiske, Jr.

That is what the timing in our resolution does. It sets up the hearings so that they will occur in a manner not to interfere with the special counsel's ongoing investigation.

We have been advised that the special counsel expects to complete his investigation in the first phase this month. So what our resolution provides is that the hearings in the Banking Committee will begin within 30 days after the special counsel completes his investigation but, in any event, no later than July 29.

So the hearings will occur, if our Republican colleagues will stop stalling and let us vote on a resolution that will direct the hearings to occur. But every American should understand that the very people who are saying let us begin the hearings are the people who are preventing us from voting on a measure to require hearings. In other words, their words are inconsistent with their deeds. What they are saying is the opposite of what they are doing.

Of course, that is what has occurred throughout this process. First, they called for the appointment of a special

counsel, and a special counsel was appointed. The special counsel is a Republican, a lifelong Republican, of high integrity and great experience. Five minutes after he was appointed, they reversed their field and began demanding a congressional hearing, even though the special counsel, appointed upon their request, himself a Republican, requested that hearings not be held at a time and under circumstances which would undermine his investigation.

But, once again, one would ask how is it our colleagues will take one position 1 day and then another position another day? The reason is obvious: That there is no consistent principle behind what they are doing. All they have in mind is to damage the President and the First Lady of the United States. That is the only objective. And so, if it takes a zig to bash the President, they will zig. If it takes a zag to bash the President, they will zag. If it takes a flip to bash the President, they will flip. If it takes a flop to bash the President, they will flop. Zig and zag, flip and flop, so long as they can bash the President; bash the First Lady; try to inflict damage upon them.

That is what is going on here. The American people know it, and it is obvious a clear majority of the Senate knows it.

This amendment, I say to my colleague with all due respect, is inconsequential. The hearings are going to begin sometime in July, and they are going to begin hopefully after the special counsel has completed an investigation, and with time for the Banking Committee to prepare.

But, I will say again to my colleagues, we need to pass the resolution to give direction and authority to the Banking Committee to conduct the hearings. And the longer our Republican colleagues stall and obstruct and delay, as they are now doing, the less time the Banking Committee will have to prepare for the hearings that our colleagues say they want.

So what they should do is to stop the delay; stop the obstruction; stop acting in a manner inconsistent with their words. Let us vote on this; let us pass it; and let us tell the Banking Committee to get going to prepare for these hearings.

That is the obvious course. But, of course, that is not the political course of action and, therefore, I do not expect my colleagues to leap to agreement with the suggestion.

But, we have already voted five times on the same issue. So there is no reason why we cannot vote another five times on the same issue if that somehow pleases our colleagues or makes them think that they are gaining some kind of a political advantage here.

We will just keep going. We are going to stay steady on course. We are going to get through this. We are going to

pass the airport improvements bill. I know my friend from Kentucky, the manager of that bill, would like to see it passed and may have a few words on that. We will stay in session tonight for as long as it takes to get it done.

I thank my colleagues, and I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I would like to comment further on some of the remarks of the distinguished leader.

First of all, I heard it several times stated that, "Oh, it was just Republican Senators that called for a special counsel."

Yes, Republican Senators did, a number of them. But I was there. I remember also some Democratic Senators said that they thought there should be a special counsel. I remember specifically the Senator from New York, Senator MOYNIHAN, on one of the Sunday morning talk shows said he thought absolutely we should have one. I could be wrong, but I thought the Senator from New Jersey made a similar call.

So it was not just a partisan call. Although the leader has said several times it was Republican Senators that called for a special counsel, well, yes; so did some Democrats. But there was no deal there that if you had a special counsel that the Congress would then abdicate, totally abdicate, its responsibility, its role, to have appropriate hearings into a number of questions that have been raised.

Now, as far as bashing the President and the First Lady, you have not heard me say anything against either one of them.

All I am saying is that there should be a hearing, a fair, open, complete hearing and get this matter behind us.

I remember other hearings. I remember how quickly we had complete, total, full hearings on Watergate, Irangate, the October Surprise. Then it was fine to go forward and have these complete hearings. But now, "Oh, wait a minute here. We don't want to have complete hearings this time."

Now it is political. Boy, I have heard it all. It is political because we say that there ought to be some hearings, but it was not political all the hearings we have had over the past 20 years, especially that ridiculous thing we had called October Surprise in 1992. That was the most blatant, partisan political thing I ever saw in my life.

So, now the shoe is on the other foot. When we say we ought to have full, open, fair hearings, "Oh, you're political."

The temerity of the assertion that it is political when we say let us have hearings—not an inquisition, not a trial, but hearings—on laws that may have been broken, agencies or departments that may have been abused.

We are not alleging who might have done that. But we are saying that there

are so many questions out there, so many violations that have been suggested, that they should go forward.

So, I do not believe the American people are going to buy this deal that now it is political, but all these other hearings, oh, they were not political. Baloney.

Now, look. We may be a little slow. Just because you got the cheese sitting out there in the trap saying, "Come on, let's us go forward; let's have the hearing; come on in here," you do not think we are going to look at the trap.

Here is the trap—a mechanism that guarantees there will not be real full hearings. That is the trap.

The leader says, "Oh, yes, you Republicans, if you really want a hearing, let us have a hearing. But we are not going to allow but one committee to be involved. No extra staff, no subcommittee involvement, no Senators from other committees with related jurisdiction, no other committee with jurisdiction, one committee, the Banking Committee, that is all. And we are going to fix it where, more than likely, it is going to last 2 weeks, maybe. And we are going to limit the scope to three narrow slivers of jurisdiction."

My colleagues, this is a guarantee that there will be no real hearings. That is what is involved here. Why, this is a total sham, and we know it.

That is why I keep urging the leaders to get together and come up with a serious agreement that we can go forward with. We are not going to walk into this trap and be told, "Oh, we will have a hearing, but you are going to do it our way and that is all."

We cannot even call witnesses. Well, you say, oh, well, Republicans have never been given the ability to call witnesses, to have subpoena power. How in the world are we ever going to get our witnesses before the committee? Do you think the majority is going to give it to us? Do you think the chairman is going to give it to us? No.

I will tell you one other fundamental difference. This time the White House, where the allegations are lodged, and the House and the Senate are controlled for the first time in a long time, except for the 4 years in the late 1970's, by the same party.

How do you get a full, fair investigation if you cannot even subpoena witnesses? None. Senator D'AMATO will not be able to call any witnesses. Who believes that? Is this going to a fair hearing? Is this going to a real hearing? Absolutely not.

We want to pass this bill. We want to have a fair hearing. We are willing to make a reasonable agreement. Let us do it.

The allegation is made that we do not want real hearings—we want a circus. I think our integrity is questioned here.

And do not question the motives for trying to block total, fair, and open hearings.

I know what is going on. But if we try to get hearings that are structured in such a way that we could get in all the scope of what is involved in this issue and call witnesses and have adequate time for the hearings—oh, you want to make it a circus.

I agree. Let us begin the hearings now. There is nothing to prevent the committee from going ahead right now and getting ready for these hearings. If they really want to have full-blown hearings, they could be doing that while we debate this issue.

This is a process to guarantee that there are not real hearings. There should be an agreement on that.

We are not going to give up on this issue. We have no choice. We cannot agree to hearings that will not be hearings, that will be a total sham.

In the alternative, if we do not use whatever mechanisms we have to try to get a reasonable, responsible agreement, once again, we are abdicating our responsibility.

I urge my colleagues to talk to our leaders and let us get a real hearing agreed to. I think we can do that. And then we can get on with the other business.

But we are using this vehicle because we have no other. This is the only way we can get a hearing. This is the only way we can point out to the American people that there will never be real hearings.

And there are a lot of people—I mean, I do not know exactly what the polling numbers are on it; I am not alleging that you have people running all over our State saying, you know, you must have hearings on this—but there are a lot of people that want to know what really is going on.

My question is: What is going to be the process to find out and when will it be? It will not be this year under this process.

I yield the floor.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized. The Senator has 10 minutes and 54 seconds.

Mr. FORD. Mr. President, I am not a lawyer and I take the advice of my father that a little knowledge of the law is dangerous, so get you a good lawyer and stay with him.

That is what I thought occurred when Mr. Fiske was named as the special counsel. I did not know Mr. Fiske. I know a little bit more about him today than I did early on. But I could not understand the euphoria from my Republican colleagues about the appointment. They beat their chests. What a great fellow he was.

Now they have a special counsel, he is one of theirs, he is a Republican. We

found that he was fair, a lot of integrity, and that was significant, I think. But Mr. Fiske's approval came basically from the Republican side of the aisle. So I felt maybe we had been reasonably fair in the selection of the special counsel.

I do not think anyone yet has said Mr. Fiske is not a good attorney, not a good prosecutor, not a man of integrity. All those things he is.

That got me back to what my dad told me: Get a good lawyer and stay with him.

So now we have Mr. Fiske attempting to do the kind of job that he was requested to do and he would be expected to do by all of us. We, those Members in the leadership, discussed with Mr. Fiske—regarding his ability to do the right thing to complete the job in the manner that would be expected of him—on how best to proceed.

Mr. Fiske suggested that the Senate not hold hearings, nor the House hold hearings, until such time as he could complete phases of his investigation. And only when he completed a phase would he suggest that we hold hearings because it would be detrimental to him in his process. With 23 FBI agents and I do not know how many lawyers working to do all of this, that it would be detrimental to his ongoing investigation if we brought witnesses into the hearing room and to question them publicly before he had a chance to complete his job.

That is all he has ever asked. In spite of that, the man who was approved by my colleagues on the other side, a man who has a wonderful reputation of being able to do a thorough and good job, his opportunity is now being jeopardized by those who are trying to make political capital.

Do not tell me you are not trying to damage the President and First Lady. You say I know what is going on. We know what is going on, too. That makes both sides know what is going on, so that kind of makes us equal.

But the process that we have now guarantees hearings based on the recommendation of the special counsel that was approved by the Republican side of the aisle. What is wrong with that? I do not think anything. We asked for a reasonable, responsible agreement. I think the special counsel has to be a part of that agreement. He has made his views known—privately and publicly: Do not question the witnesses in public before I have an opportunity. Do not delve into areas until I complete my job, because when I complete it, I want it to be a good one, I do not want it to be jeopardized. And now we are trying to jeopardize it.

But we have before the Senate a procedure to guarantee hearings. If he says tomorrow—tomorrow is the 16th—that he is completed with this phase and you can go and have your hearings in that area, that means it will be

somewhat earlier, it will be the 16th of July instead of the 29th. So it could come sooner than later.

What we are hearing now is speculation—his interpretation, my interpretation. We are asking for a hearing in conformance with the special counsel's request. I think that is a fair way to do it, because we see what we did in previous major open hearings; immunity was given and those who were convicted, by a technicality are not serving their convictions. So we have to be careful, if there are to be convictions, if there are to be trials, that we do not jeopardize the ability to do it.

Mr. President, I am chairman of the Aviation Subcommittee on the Committee of Commerce, Science, and Transportation. My colleague from Mississippi is on that committee. Last November we reported out of that committee an Airport Improvement Reauthorization bill for 3 years. For the last 8 months I have been trying to work out the ability to bring that piece of legislation to the Senate floor and get it passed. Many of my colleagues on both sides of the aisle have been accommodated in that bill so we might do what we feel is in the best interests of everybody. Sure, there are going to be some things some people do not agree with. We are not perfect, so therefore we do not produce perfect products. There is only one person who is perfect and we try to be like him.

So here we stand now for 5 days, delaying me from getting this bill passed. I had to introduce an interim piece of legislation so we could get funding to the States for their airport improvements so we would not lose a construction season. We worked closely with the presiding officer, the distinguished Senator from Colorado. We were able to work out, in this bill, something that has been going on for 4 years. Only because he was willing to sit down—and others—do we have an agreement in this bill.

It has been held up. Last year the State of New York, for instance, got \$81 million based on Airport Improvement Trust Funds on their allocations and discretionary funding. When this bill passes I have to take it to conference with the House, get it back, get it passed and to the President so we do not lose the rest of the construction season.

Already this year under the interim bill that expires June 30, New York has received \$12.5 million. I picked out New York because the propounding of these major amendments have been carried on by the distinguished Senator from New York. The entitlements that New York will have are now held in abeyance: \$25 million this year, \$25 million next year, and \$25 million the next year. They are being held up. And the good citizens of New York, who are now paying their taxes, cannot get their money to improve their economic

development because we are here arguing about Whitewater, whether we have a hearing on July 15 or July 30. And we are holding up this bill.

There are only three or four more amendments before I can get the bill passed. I have labored hard, Mr. President, and others on my subcommittee and the full committee have labored hard to try to make things work. But we run into something called Whitewater, that does not amount to a hill of beans to the people wanting new airports in their community or an expansion of their airport or to do the things that are in the best interests of this country and what the flying passengers in this country have paid for. So now they are being held up.

I do not know what else to do. They keep bringing up these amendments. There has not been but one vote change in the last five or six votes, and that was because one Senator was necessarily absent. He was not here, today he is back, and the votes have not changed one iota. And they are not going to change.

Whatever it takes, we will work it through. But I want you to know, and I want my colleagues to know, that they are holding up an important bill. If you hold it up much longer I have to have another interim piece of legislation to try to help the States so they will not lose this construction season as it relates to their airport improvements.

Airports may not be too important to people. Maybe political damage to the President and the First Lady is more important than doing things for your States. Maybe that is true. But I just want you to know I have worked hard and I want this bill passed. If it takes all night tonight, all day tomorrow, all night tomorrow night, all day Friday, all night Friday night, all day Saturday—I am ready to stay. If they take my advice, I would say get out the cots and the blankets because it is about time we stopped these charades and we stayed here until we got it done.

I do not imagine I will prevail, but if I had my way about it, we would stay here until we finished it. Maybe that is the reason they did not want me over here leading this side. I would just say, "Let's get the cots out." And get the cots out we will, if I have something to do with it, and we will get this thing over with. One of these days they will want to go home, and we will just stay here until it is over.

Mr. President, I see you picking up the gavel and time is about to expire. But I wanted you to know that there is more here than Whitewater amendments that is the same vote time after time after time. There is an underlying bill that is being delayed, and construction and help for all 50 States in this bill has already been delayed 5 days.

I yield the floor.

VOTE ON AMENDMENT NO. 1787 TO AMENDMENT NO. 1786

The PRESIDING OFFICER. Under the previous order, the hour of 4:20 p.m. having arrived, the question occurs on agreeing to amendment No. 1787, offered by the majority leader.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 1787. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 142 Leg.]

YEAS—56

Akaka	Finstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Riegle
Byrd	Kerrey	Robb
Campbell	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dodd	Levin	Simon
Dorgan	Lieberman	Wellstone
Exon	Mathews	Wofford
Feingold	Metzenbaum	

NAYS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

So the amendment (No. 1787) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment numbered 1786, as amended.

The amendment (No. 1786) was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by our colleagues on the other

side of the aisle that they have another amendment but it is not quite ready; that the Senator who is to offer it is detained for a few moments.

Therefore, I ask unanimous consent that the Senator from Washington be recognized to address the Senate as if in morning business for up to 7 minutes.

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

Mr. MITCHELL. I anticipate that by that time our colleagues will be ready with another vote.

The PRESIDING OFFICER. The Senator from Washington is recognized for up to 7 minutes.

Mrs. MURRAY. Thank you, Mr. President.

(The remarks of Mrs. MURRAY pertaining to the introduction of S. 2193 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

AMENDMENT NO. 1788

(Purpose: To authorize hearings on the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency)

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1788.

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency.

AMENDMENT NO. 1789, TO AMENDMENT NO. 1788

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

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1789 to amendment No. 1788.

The amendment is as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. MITCHELL. Mr. President, may I inquire of the distinguished Senator from Pennsylvania, through the Chair, whether it is agreeable to have a time limitation for debate on the amendments just offered and a vote on the second-degree amendment?

Mr. SPECTER. Mr. President, I would be glad to enter into a time agreement.

Mr. MITCHELL. Might I suggest 5:30? Mr. SPECTER. That is acceptable to this Senator.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that a vote on the pending Mitchell amendment occur at 5:30 p.m. today, and that the time between now and then be equally—

Mr. SPECTER. Reserving the right to object, I have been advised that there may be a problem on our side.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I withdraw my request, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that there now be 45 minutes for debate on the amendments offered by Senator SPECTER and myself, equally divided between Senator SPECTER and myself; that at the conclusion of that debate, the two amendments be set aside and that Senator BOND or his designee be recognized to offer an amendment; that immediately upon the reporting of Senator BOND's amendment, I be recognized to offer a second-degree amendment to that amendment, and that there then be 45 minutes for debate on those two amendments, equally divided and under the control of Senator BOND or his designee and myself; that at the conclusion of that time, or rather, that at 6

p.m. the Senate vote on the pending Mitchell amendment in the second degree to the Specter amendment; that following disposition of that amendment without any intervening action or debate, the Senate proceed to vote on the Specter amendment, as amended, if amended; that upon disposition of the Specter amendment, that the Senate then without any intervening action or debate vote on the then-pending Mitchell amendment to the Bond amendment; that upon the disposition of that amendment, the Senate proceed to the disposition of the Bond amendment, as amended, if amended, again without any intervening action or debate.

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

Mr. MITCHELL. Madam President, then for the information of Senators, there will now be a period of 45 minutes for debate on the amendments offered by Senator SPECTER and myself at which time that will be set aside. Senator BOND or his designee will then offer another amendment. I will then offer a second degree to that. Those will be debated for 45 minutes, and at 6:30 p.m., there will occur two rollcall votes. Senators should be prepared for that and should adjust their schedules. So there will be two rollcall votes at 6:30 p.m., this evening. There will be no rollcall votes between now and then.

By that time, it is my hope that we will have been able to discuss and work out a procedure for the time immediately following those votes with respect to the offering of amendments, debate, and votes.

Madam President, I thank my colleague for his cooperation, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Madam President, for those who might be watching on C-SPAN and those in the gallery, you have just heard a unanimous consent agreement which predicts a second-degree amendment to the Bond amendment. For those who might not understand the legalese of the Senate procedure, the distinguished majority leader has already stated in advance without having seen the Bond amendment that there will be a second-degree amendment to it, which follows the pattern on the second-degree amendment to my amendment which will, in effect, nullify under the majority leader's efforts the thrust of my amendment and what is anticipated to be whatever may be in Senator BOND's amendment.

My amendment is an effort to broaden the scope of the investigation into Whitewater to conform with a 98-to-0 vote taken by the Senate in March and try to set the stage for an appropriate Senate inquiry into what has happened in Whitewater and related matters.

It is unfortunate that the Senate is now engaged in a series of amendments

and debates which are highly charged and highly partisan, with all the Democrats lining up on one side and all of the Republicans lining up on the other side.

That does not give a very good impression for the American people as to what is going on in the U.S. Senate which is touted or perhaps which touts itself as the world's greatest deliberative body when there is so much of the Nation's business to be accomplished and there appears to be a wrangling approach to what is a very, very important matter of public policy.

As I say, I regret that, and we are searching for some way to accommodate the public interest in a non-partisan or bipartisan way to get to the underlying facts of Whitewater which everyone concedes is a matter which requires a mandate urgently necessary for this investigation and congressional hearing, as evidenced by the March vote which was all encompassing on a resolution for all matters relating to Whitewater.

And then when Senator D'AMATO had offered an amendment with a broad sweep, the distinguished majority leader, Senator MITCHELL, came back with an amendment which was carried on a party-line vote which very drastically limits the scope of the Senate inquiry to three very narrow items.

The importance of the congressional inquiry—House inquiry, Senate hearings—goes far beyond the import of a grand jury investigation, which is now being conducted by independent counsel, also known as the special prosecutor, Mr. Fiske.

The purposes of a grand jury are totally different from a congressional inquiry. A grand jury focuses on allegations which may lead to indictments on criminal conduct, and those hearings are conducted in secret, and they are not available for the public interest.

Contrast that with a Senate inquiry or a House inquiry or a joint congressional inquiry which goes into matters in a public way with a public disclosure inquiring that the matter of broad public policy and broad public policy interests as to what happened on the savings and loan investigation, on a savings and loan matter which amounted to billions of dollars in losses to the American taxpayers.

I have offered an amendment today which would broaden the scope of what the distinguished majority leader has very narrowly circumscribed in the provision of his amendment which is as follows, "Communications between officials of the White House and the Department of Treasury or Resolution Trust Corporation relating to the Whitewater Development Corporation and the Madison Guaranty Savings and Loan Association," to a broader statement to have an inquiry "into, study of, and hearings on all matters which

have any tendency to reveal the full facts about the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency."

The difference in those approaches is obvious on their faces, where the amendment that I am offering is much broader and in line with the amendment in March which the Senate approved on a 98-to-nothing vote.

There was disclosed in the press in late February or early March the details of a meeting between members of the White House staff and officers of the Resolution Trust Corporation, which led me to write to the President asking him to terminate the employment of the individuals who were involved in those discussions unless his personal inquiry satisfied the President, as I say, personally that there was no impropriety involved, and if he made that determination, then I asked the President to make a disclosure as to what those extenuating and exonerating facts should be.

When the RTC and officials of the Department of Treasury are involved in an investigation, it is absolutely, positively inappropriate for them to brief members of the White House staff on that matter. The investigators or those privy to an investigation should absolutely not have contacts or make disclosures to any individuals who may be the subject of an inquiry. That is a very, very basic rule of investigations which requires a little elaboration about not talking to those who are subject to an investigation because that compromises the investigation.

And it seemed to me that those individuals ought to be summarily fired. Before asking the President to summarily fire them, I included an escape clause that if he was satisfied that there was some extenuating circumstance which exonerated them from what appeared to be a total cause for firing, so be it. The President is their chief and if he makes that decision and makes a disclosure of his reasons, then we would take the matter from there.

As of this moment, some 3 months later, I have not had any reply to my letter of March 3, and later in the course of this amendment, I will read the letter and put it into the RECORD.

But on the face of this matter, the limitations which are contained in the amendment offered by Senator MITCHELL are much too restrictive on their face, and the broader scope of this amendment I think would provide the public with the kind of assurance and confidence that the matter would be investigated in an appropriate way.

On the second-degree amendment offered by the distinguished majority

leader, it simply says that there will be further inquiry, or may be a further inquiry, as the majority leader and the Republican leader may agree to. And that says nothing, because without the agreement of the majority leader, there is going to be no further inquiry.

Based upon the scope of the investigation which is contained in his amendment, the inquiry is very, very sharply circumscribed as to be virtually meaningless. It is for that reason that I have offered this amendment.

I might say, Madam President, I have no illusion about the outcome of the vote, considering the party-line result. But, when there is an impasse of this sort between the Democrats and the Republicans, this is our only course. It is unfortunate that this is tying up an important airport bill which really ought to proceed in the public interest and be disposed of.

But the fact is that the only available pressure point for Republicans in Washington, DC, today in the Federal Government is the ability of 44 Republicans, if we are sufficiently united with 41, to stop legislation from moving through this body. I hope that that will not be necessary, because gridlock works to the disadvantage of the American people and it gives a big black eye to the Senate of the United States.

So it is my hope that, when we discuss these matters, flush them out and talk about the scope of the investigation and the reasons for it, we will find some accommodation in this Chamber so that we can proceed to transact the business of the country.

Madam President, I inquire as to how much of my time remains.

The PRESIDING OFFICER. The Senator has 11 minutes and 45 seconds remaining.

Mr. SPECTER. I thank the Chair.

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

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, I thank my colleague for his comments.

What is occurring is the following: Senator D'AMATO offered an amendment dealing with the so-called Whitewater matter and included in his amendment a very broad description of the proposed subject matters of a congressional hearing.

It is our view that the broad interpretation in that amendment directly contradicts the request of the special counsel and also directly contradicts the Senate's previous action when, on March 17, the Senate voted 98 to zero to have congressional hearings structured and sequenced in a way that does not interfere with the special counsel's investigation.

We believe that the appropriate course which will permit the Senate to meet its constitutional and legal re-

sponsibility and permit the special counsel to go forward with a meaningful and effective investigation is to conduct hearings on the first phase of the special counsel's investigation when he completes that first phase, but in any event the hearings would begin no later than July 29 of this year, and then to conduct hearings on the remaining phases of his investigation when he completes those remaining phases. That is the special counsel's request. That is consistent with what the Senate has voted 98 to zero on March 17.

When Senator D'AMATO offered his amendment and then I offered an alternative amendment, I proposed to Senator D'AMATO and our Republican colleagues that we take them up separate from any other bill—freestanding, in the jargon of the Senate—and that we debate them and we vote on both of them; that there would be a vote on my amendment and there would be a vote on Senator D'AMATO's amendment. The Senate would be then in a position to express its will on which of the competing procedures it wished to adopt. That request was rejected by Senator D'AMATO and our Republican colleagues.

He then offered it as an amendment to the airport improvements bill. Of course, this subject has nothing to do with the airport improvements bill. Many Americans will no doubt wonder why we are debating Whitewater in connection with a bill that is to provide funds for airport improvement. The rules of the Senate permit that, of course, since there is no restriction on the right of amendment.

Following his offering of the amendment, I offered mine as a second degree to his. The Senate then effectively chose mine over his by adopting mine by a vote of 56 to 43.

Subsequently, what has happened is our Republican colleagues are taking each of the individual provisions in Senator D'AMATO's amendment and offering them as separate amendments. That is the amendment we have before us.

In Senator D'AMATO's amendment, for example, in section—and this is hard to follow because of all the numbers and letters—but it is 1(b)1(A). That was offered as a separate amendment and the Senate rejected it by adopting an alternative. The same is true of subsection (F), subsection (G) of that amendment, as well as subsection (N) of that amendment.

And now we have before us what is a verbatim copy of subsection (E) of the D'Amato amendment.

So, in effect, the Senate is debating the same issue which it has debated on five previous occasions and votes, the first being the broader amendment as to the scope and then following that a series of amendments dealing with individual provisions in the broader D'Amato amendment.

So, while the language of this amendment is different, reflecting a subsection that is different from those previously pending, the issue is the same. The issue is: What should the scope of the congressional hearings be at this time?

And there it is our view that, consistent with both the Senate's resolution of March 17 and the request of the special counsel himself, the hearings by the Senate now should be limited to those subjects that are to be completed in the first phase of the special counsel's investigation. And the special counsel has been quite clear and consistent in that request, both in writing and orally in meetings with Members of the Senate and in other public statements. His concern is that hearings that go beyond the first phase now will undermine his investigation into the remaining matter.

So, while the words are different from the previous amendment, the issue is identical to those of the previous amendment, except for the immediately preceding amendment which dealt with the date on which the investigation or the hearings will begin.

Madam President, I would like, if I might, to take a moment to respond not to the remarks of the Senator from Pennsylvania but rather to remarks made earlier by the Senator from Mississippi when we dealt with his amendment. That has to do with what he called whether there is going to be a free and fair hearing.

The implication of his remarks is that the procedure contained in my resolution will not permit a free and fair hearing and we would have to adopt procedures of Senator D'AMATO's resolution to have such a hearing. I suggest the opposite is the case.

First, the procedure set forth in my resolution is that the hearing be held, as are all Senate hearings, in accordance with the rules, practices, precedents, and procedures of the Senate.

Today, this very day, committees of the Senate held hearings under those rules. I know of no one who has suggested that those hearings were not free and fair or that there is some reason to think that we cannot have free and fair hearings under the Senate's rules.

The one difference is, of course, the limitation on the scope to accommodate the request of the special counsel.

Now, the procedure proposed in Senator D'AMATO's alternative resolution, by contrast, is one that has no precedent in the more than 200 years of Senate history. We are presented with, as an alternative, a procedure which has never occurred.

I have asked Senator D'AMATO and others in our staff, and we can find no precedent for it. It establishes a process that is outside the rules of the Senate, that is not consistent with the prior practices and procedures of the

Senate, and that creates certain powers in certain members of the special committee that are without any precedent in the Senate.

So I did not have a chance to respond earlier and I want to make it clear, lest there be any misunderstanding, the way to have a proper and thorough hearing consistent with the Senate's practices and consistent with the request of the special counsel is to do what the Senate has already done. That is, to adopt the resolution which I have proposed and to reject the alternative which has been proposed by Senator D'AMATO, as the Senate has done.

So, Madam President, I urge my colleagues to vote for the substitute amendment which tracks the previous substitute amendments and makes clear that we are going to have hearings and we are going to do them in a manner that is consistent both with the Senate's resolution adopted 98 to 0 in March and the request of the special counsel, and in addition, the practices and procedures of the Senate.

Madam President, I yield the floor and I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader has 11 minutes and 5 seconds remaining and the Senator from Pennsylvania, 11 minutes and 45 seconds remaining.

Mr. SPECTER. Madam President, I believe the amendment which I have just offered is substantially different than anything which has been discussed heretofore because of the very substantial factual background leading to this amendment. These are materials provided, some from hearings and some from media accounts, and I believe they are accurate, but they are subject to that limitation. But the information is that on September 28, 1993, Treasury general counsel, Jean Hanson, briefed White House counsel Bernard Nussbaum on the RTC's plans to make a criminal referral to the Justice Department relating to the failure of Madison Guaranty Savings and Loan Association and reportedly told Mr. Nussbaum that President Clinton and First Lady Hillary Clinton would be mentioned as potential beneficiary of Madison's failures.

There was later a meeting on October 14, 1993, among Treasury and White House officials in Mr. Nussbaum's office. There was later, on February 2, 1994, a meeting initiated by Mr. Roger Altman, and Miss Jean Hanson with Mr. Nussbaum to "describe the procedural reasons for the then impending February 28th deadline as far as the statute of limitations was concerned." And a few days following the February 2 meeting, Mr. Altman discussed his possible recusal with Mr. Ickes in person, Mr. McLarty by telephone.

The Office of Thrift Supervision Acting Director Jonathan Fiechter and acting general counsel Carolyn

Lieberman allegedly turned down a request of the senior lawyer in the Midwest region who would handle the OTS investigation of Silverado Savings & Loan to open a formal investigation into Madison. The decision not to pursue the investigation was reportedly made by senior political appointees at Treasury. However, Mr. Fiechter has stated that he had "no involvement in the matter and that neither he nor OTS staff had consulted with Treasury Department officials on enforcement matters."

If I might have the attention of the majority leader? On the amendment which I have offered, I have included the Office of Thrift Supervision, which I think is a very important agency, which is not mentioned in the amendment of the majority leader.

I ask the majority leader what reason he would have for excluding the Office of Thrift Supervision from being specified as an Agency whose conduct ought to be subject to investigation?

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Madam President, we believe the resolution we presented is precisely consistent with the request of the special counsel and the previous action by the Senate; that it embraces those subjects which should be covered now; and that will not interfere with the special counsel's investigation.

Mr. SPECTER. If I may pursue this with the majority leader, in the timing which the majority leader has established, procedures are designed to allow the special counsel to proceed. I disagree with that. I think you can have an investigation, an inquiry by the Senate, without interfering with special counsel.

But assuming the majority leader has his way on it—which appears to be the case with 56 votes on his side of the aisle—what harm is there in including the Office of Thrift Supervision within the scope of that paragraph of his scope of investigation?

Mr. MITCHELL. Madam President, my understanding is that the allegation of improper conduct related to the Resolution Trust Corporation and not to the Office of Thrift Supervision. I think if we said we were going to include that, there would, of course, be no limitation on any agency or office which could be included.

Mr. SPECTER. Madam President, I do not think that is true. If you specify the Office of Thrift Supervision, it is just that.

I would like to know what other agencies may be involved. In the course of an inquiry it is entirely possible that other agencies may be mentioned. We just do not know. So that is why there is a catch-all provision in my amendment. But with respect to the Office of Thrift—

Mr. MITCHELL. If I may just comment on that?

Mr. SPECTER. I will be glad to yield.

Mr. MITCHELL. To follow that argument to its logical conclusion—although there is no evidence involving anyone in the Office of Thrift Supervision, the Senator says they should be included because something might develop about them. We could put the entire Federal Government into this. We could say, well, even though we have no evidence of improper action by a particular agency—let us say the Department of Defense—we ought to include them in it because there might be some evidence that would be developed, implicating them.

I do not agree with that.

Mr. SPECTER. The majority leader misunderstands me. You may not have heard my reference because you may have been conversing at that point before I specifically attracted your attention. But I had referred to the specific of the Office of Thrift Supervision Acting Director, Jonathan Fiechter, and Acting General Counsel Carolyn Lieberman had allegedly turned down a request from a senior lawyer in the Midwest region to open a formal investigation into Madison.

So there are specific factual allegations in the public domain involving the Office of Thrift Supervision. It seems to me that even under the narrowest of interpretations, which I submit the distinguished majority leader has in his resolution, the Office of Thrift Supervision ought to be included.

Mr. MITCHELL. Madam President, the alleged contacts which are the subject of the first phase of the special counsel's investigation, involved contacts in Washington and do not involve matters outside of Washington.

If and when those are the subject of the special counsel's investigation, and he completes that investigation, then I believe it will be appropriate to have a hearing on that matter.

I believe we should limit the hearings to those matters which are embraced in the first phase of the special counsel's investigation, so, in his words, as to not to take any action which would undermine or interfere with his subsequent investigation.

Mr. SPECTER. I am delighted, Madam President, to join issue specifically with the majority leader on that point, because I think that illustrates the fallacy of the limited scope, the fallacy of limiting our inquiry, the Senate's inquiry, into what the special counsel has to work on.

There is no magic as to what occurs in a Washington investigation contrasted with what occurs in an investigation outside of Washington.

When the Office of Thrift Supervision in the Midwest region has made an inquiry into an Arkansas transaction and all the indications are that it is directly related to even the matters which the majority leader would have

subject to investigation—what has been done with the Resolution Trust Corporation and the officials of the Department of Treasury—I think it shows the inappropriateness of having such a narrowly circumscribed inquiry.

When the majority leader talks about not including other Federal agencies, like the Department of Defense, I think that is unanalogous. You have agencies like the Department of Justice, which I would not want to name specifically because we do not know what may or may not have been involved, but there are contacts from the Department of Justice, and if some of the leads move in that direction, there ought to be breadth of scope so that you can pursue that.

When investigations are conducted by grand juries or investigations are conducted by congressional committees, there is characteristically a sufficiently broad mandate to pursue matters without having it specified and coming back to the originating body.

I know very well that the distinguished majority leader is experienced in this field. He has been an assistant U.S. attorney. He has been a Federal judge. He has participated in congressional investigations.

Mr. MITCHELL. I just correct the RECORD at one point—U.S. attorney.

Mr. SPECTER. What did I say you were?

Mr. MITCHELL. Assistant.

Mr. SPECTER. I did not mean to demote Senator MITCHELL. I stand corrected.

Mr. MITCHELL. A small point, but I am proud to have served.

Mr. SPECTER. If you called me U.S. attorney, I would have interrupted as well. I was a district attorney. Sometimes precision can be added, and I thank the majority leader. But the substantive point remains that you have such a tightly drawn charter and here you have a situation where there are specific matters in the field in the Office of Thrift Supervision, and a Senate hearing may come upon a matter which is directly related to the Office of Thrift Supervision.

Who knows, some Senator who might be sitting on the right side of the aisle may ask a question and the chairman may say, "I'm sorry; that is out of order. We have an amendment from Senator MITCHELL here which precludes it."

We talk about a lot of generalized matters which are a little hard to follow in the public arena. But I raise this issue because there is specific information involving the Office of Thrift Supervision which touches these matters directly and that seems to me ought to be at least within the scope of what would be agreed to by the majority leader.

Mr. MITCHELL. Madam President, has the Senator concluded his remarks?

Mr. SPECTER. I have.

The PRESIDING OFFICER. The Chair will tell the Senator from Pennsylvania, he has 26 seconds remaining. The majority leader has 11 minutes and 1 second remaining.

Mr. MITCHELL. Would the Senator like a few more minutes of my time?

Mr. SPECTER. I thank the majority leader for that offer. It depends on what happens.

Mr. MITCHELL. Madam President, let me make a couple of points.

First, so there can be no misunderstanding in the Senate about the fact that we are voting on the same thing we have previously voted on, I want to read the paragraph of this amendment and then read the paragraph of the D'Amato amendment which the Senate has previously debated and voted on, and by adopting the alternative rejected. Just so all Senators understand that.

Here is what this amendment says beginning at line 4, after appropriate introductory language, in referring to the committee:

*** conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the independence of the Resolution Trust Corporation, Federal banking agencies and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency.

The language of the D'Amato amendment is:

*** conduct an investigation into and study of all matters which have any tendency to reveal the full facts about the independence of the Resolution Trust Corporation, Federal banking agencies and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency.

A listener will note they are identical. So we are debating and voting on an amendment which we have already debated and voted on as part of a larger amendment.

Second, the Senator has focused on and has raised a good point on the Resolution Trust Corporation, but his amendment also includes the words, "other Federal regulatory agencies, banking agencies, and any other Federal agency." That is a license for an unlimited fishing expedition.

"Other Federal regulatory agencies, Federal banking agencies and any other Federal agency." It seems to me those words make clear that the purpose here is to permit inquiries into any subject involving any Federal agency.

And so while the Senator argues—and I respect him and his point of view—that my resolution is too restrictive, I do not share that view. I respectfully disagree. I would argue that

this amendment is way too broad. That is the problem. That is the disagreement we have.

Our colleagues want right now to have hearings that will get into every conceivable aspect of this matter and be able to involve any Federal agency.

We want to heed the request of the special counsel to limit the hearings to those subjects which are involved in the first phase of his investigation so as not to undermine the remainder of his investigation. That is the point that is at issue, and that has been at issue from the beginning of this discussion.

The Senator suggests that, in his words, there is a fallacy in the argument that we ought to limit it to those matters being covered in the first phase of the special counsel's investigation. I disagree, again, respectfully, but I note that if there is a fallacy, it is a fallacy adopted by the Senate by a vote of 98 to 0 in March. I do not know if the Senator was present then, but if he was, he voted for it. And it says, in subparagraph D:

The hearing should be structured and sequenced in such a manner that, in the judgment of the leaders, they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

So the Senate, by a wide vote, expressed itself clearly on the Record as not wanting to conduct hearings in a manner that would interfere with the special counsel's investigation.

Mr. SPECTER. Will the distinguished majority leader yield for a question?

Mr. MITCHELL. Certainly.

Mr. SPECTER. I was present, and I disagree with the interpretation to this effect: That as you have structured your amendment, you have done so in a way calculated not to interfere with the special counsel's inquiry. I do not think it has to be, but you have done that.

My point is, why not add the Office of Thrift Supervision? When you talk about the Washington matters, I believe that that relates to matters which occurred during the term of President Clinton's occupancy in the White House, as opposed to something which is geographical in nature.

When I refer to the Office of Thrift Supervision and what happened in the Midwest branch, it is not a matter of geography, it is a matter of timing; that those matters occurred, as I understand it, while President Clinton has been in office.

So that would be comprehended within the Washington phase of the inquiry. Although the Senator may disagree with the Federal banking agencies, Federal regulatory agencies, and other Federal agencies, because that reaches every conceivable aspect of the matter, it seems to me that is exactly what we are trying to do, is reach every conceivable aspect of the matter so long as we are investigating the matter.

But why not at least—and these are my questions—why not at least include the Office of Thrift Supervision within the confines of the Senator's parameters? The second question is, is it not appropriate to include matters which occurred, although geographically in the Midwest, in time when President Clinton was in office, which is the substantive designation of the Washington scope?

Mr. MITCHELL. Madam President, if I might respond, it was the special counsel himself who stated that his investigation had two phases, one being a Washington phase and one being a so-called Arkansas phase, and that the Washington phase embraced those matters which he identified and on which our resolution is based.

Mr. SPECTER. Was not that based upon matters, the Washington phase, when Mr. Clinton was in the White House, when William J. Clinton was President? The Office of Thrift Supervision matters occurred while he was President as opposed to being linked to his activities while he was Governor in Arkansas.

Mr. MITCHELL. Right. But my point is that we are honoring the request of the special counsel, and we have accepted his description of the subject matter that is the first phase of his investigation and his request not to go beyond that.

Mr. SPECTER. But as I understand it, he has not asked us to stay out of what happened with the Office of Thrift Supervision in the Midwest region.

Mr. MITCHELL. That is true. He has not asked us to stay out of offshore drilling in California. He has not asked us to stay out of whatever. We had this debate earlier in connection with another amendment. We are stating it in the affirmative in accordance with what the special counsel indicated in the first phase of his investigation.

Now, we had an earlier amendment dealing with Mrs. Clinton's commodity trading, and the same argument was made: Well, Mr. Fiske did not object to that.

Of course, he did not. It has nothing to do with it. And I think the comment was made, well, Mr. Fiske did not object—he did not say he objected to congressional investigation into Mrs. Clinton's attempt to join the Marines. Does that mean we do it here?

I think we approach it from a different context. We are not saying that merely because Mr. Fiske did not object to something it ought to be included in the hearing. There is a universe, almost infinity of things that Mr. Fiske did not object to, but what we are saying is that we are taking those things that he has affirmatively stated constitute the subject matter of the first phase of his investigation.

Mr. SPECTER. But has not—

Mr. MITCHELL. Let me finish the sentence. And we are including those in

the first phase of the congressional hearings. And then when the second phase of his investigation is completed, it would then be, in my judgment will be appropriate and mandatory that the Senate conduct hearings on the remaining matters that are the subject of the remainder of his investigation.

Mr. SPECTER. But has not Mr. Fiske said that the first phase of his investigation is the Washington phase, meaning what happened while the President was in office? And is not the incident of the Office of Thrift Supervision that I referred to part of the first phase so that it ought to be included even within the limited scope of what the majority leader has proposed?

Mr. MITCHELL. No, I do not agree with that.

Mr. SPECTER. Why not?

Mr. MITCHELL. I do not think it should be included because it is not included in the first phase of his investigation. So we are limiting ourselves to those matters which are in the first phase of his investigation. And if that is a subject of the second or later phase of his investigation, then, of course, we will have hearings on those matters after he has completed that phase of his inquiry.

Mr. SPECTER. If I am able to satisfy the majority leader—

The PRESIDING OFFICER. The Chair will announce that the majority leader has used his time, and the Senator from Pennsylvania has 26 seconds remaining.

Mr. SPECTER. I am ahead of the game.

Mr. MITCHELL. I will give the Senator a final word.

Mr. SPECTER. If I may finish the question to the distinguished majority leader. If I am able to show the Senator factually that the matters related to the Office of Thrift Supervision are a part of the first phase of Mr. Fiske's investigation, would he be willing to amend the charter to include the Office of Thrift Supervision?

Mr. MITCHELL. I will listen to anything the Senator has to say and review it carefully and seriously, as I do all matters that he suggests. I do not make a commitment to what course of action I might take.

Mr. SPECTER. I take that as a qualified yes.

Mr. MITCHELL. That is not a qualified yes. It is an agreement to hear what the Senator says.

The PRESIDING OFFICER. All time has expired.

Mr. SPECTER. I ask unanimous consent that the letter I wrote to the President dated March 3, 1994, be made a part of the record.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, March 3, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I noted media reports of meetings between Treasury Department and White House personnel concerning the investigation of the Madison Guaranty Savings & Loan.

Given the facts surrounding that investigation, there is a strong inference that those meetings have compromised the investigation and have obstructed the investigation of a financial institution in violation of federal law.

Unless your personal review clears the parties of wrongful conduct, then I call upon you to terminate their employment forthwith without awaiting any criminal investigation by the Special Prosecutor.

If you do not terminate their employment, I ask you to advise me of the specifics of precisely what occurred in all meetings and conversations between the Treasury Department and White House personnel concerning the Madison investigation.

Sincerely,

ARLEN SPECTER.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Under the previous order, it is my understanding that Senator BOND was going to be present with his amendment or he was going to have it available for Senator SPECTER or another designee to offer. And I inquire through the Chair of the Senator from Pennsylvania if he is prepared now to offer Senator BOND's amendment or if he would like a brief quorum call while he reviews that?

Mr. SPECTER. If I may respond, I do not have the information. I think Senator BOND may be on his way over. So I think the appropriate course would be to have a quorum call.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1790

(Purpose: To authorize hearings on the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association)

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

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 1790.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association. The term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

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

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

AMENDMENT NO. 1791 TO AMENDMENT NO. 1790

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1791 to amendment numbered 1790.

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

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

The amendment is as follows:

In lieu of the matter proposed, insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. MITCHELL. Madam President, as the Senator from Missouri may be aware, under a prior agreement, we will debate this amendment until 6:30. I, therefore, ask unanimous consent that the time between now and 6:30 be for debate on the amendment offered by the Senator from Missouri and the amendment offered by myself with the time equally divided between the Senator from Missouri and myself.

Mr. BOND. That is agreeable. I have no objection.

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

Mr. MITCHELL. Madam President, I inquire whether the yeas and nays have

been ordered on my amendment to the preceding Specter amendment.

The PRESIDING OFFICER. They have not been.

Mr. MITCHELL. Madam President, I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Madam President, if it is in order, I ask for the yeas and nays on my amendment just offered to the Bond amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. I thank my colleague. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, since it is likely, given what we have seen in the past, that we will be blocked out from having a vote on the amendment which I just offered—this is the practice that we have gone through—I thought it would be helpful for my colleagues and those who are interested in this to know specifically what we are attempting to examine, and the vote which will occur along straight party lines, if the past is prologue to the history, and if prologue will prevent our consideration.

The amendment I sent to the desk, which has a second degree, would simply authorize the committee to investigate the Justice Department's handling of the RTC's two sets of criminal referrals involving Madison Guaranty. Many savings and loans, such as Madison Guaranty, failed because of criminal misconduct by insiders. Part of the RTC's duties include making referrals to criminal authorities to apprise them of possible wrongdoing.

Congress also expects RTC criminal referrals sent to the Justice Department to be thoroughly and expeditiously reviewed. The American taxpayers, who so far have paid approximately \$81 billion to resolve failed savings and loans, should be confident that the Justice Department is pursuing criminal referrals received from the RTC. The taxpayers also have a right to know specifically what happened to the RTC criminal referrals involving Madison that were sent to the Department of Justice in 1992 and 1993.

Did the Department of Justice have adequate procedures in place to deal with criminal referrals it received from the RTC, and were those procedures followed in the case of Madison Guaranty?

(Mr. CONRAD assumed the chair.)

Mr. BOND. On September 2, 1992, the RTC made a criminal referral to Justice alleging a \$1.5 million check kiting scheme among Madison, Jim McDougal, and entities under Jim McDougal's control. The referral was

sent to the U.S. attorney for the Eastern District of Arkansas. About 6 months later, in March 1993, the RTC senior investigator of Madison was informed that the U.S. attorney in Arkansas had sent this initial referral to Washington because the referral was a politically hot one.

Remarkably, when the RTC investigator attempted to determine the status of the Madison criminal referral, she was told by the U.S. attorney's office that there was no record of the referral in the Arkansas U.S. attorney's office.

Something happened. Do we in this body not have a right to ask what happened? Why not?

It took until May 1993 to determine that the Arkansas U.S. Attorney had sent the referral to Washington, DC claiming that he felt there was a conflict of interest. The main Justice Department in Washington ultimately returned the referral to Arkansas, deciding there was no basis for recusal of the U.S. attorney and a lack of conflict of interest.

Documents reveal there were no specific procedures in place at the Justice Department to monitor the disposition of RTC's criminal referral, nor does Congress know whether the Justice Department has specific procedures in place for criminal referrals it determines are politically hot.

Mr. President, I asked questions of the RTC about similar referrals, and what they did with politically hot cases, when the RTC was before the Banking Committee. I got a misinformation answer the first time, and as part of the result of that question and that answer, we got 10 subpoenas to the White House. But we have not had an opportunity to ask the Department of Justice similar questions.

This seems to me to be just another classic example of the stonewall, this time on behalf of Congress. Did the Justice Department adequately review the RTC criminal referrals regarding Madison?

On October 8, 1993, the RTC sent nine additional referrals to the U.S. attorney and the FBI. Two weeks later, the new Clinton-appointed U.S. attorney, Paula Casey, wrote to the RTC to indicate that the referrals had been declined.

In that declination letter Paula Casey also indicated that the matter was concluded before she began working in this office. It is unclear who at Justice reviewed the RTC criminal referrals relating to Madison, and at what point the decision was made not to pursue the referrals.

Mr. President, these matters involve critical questions about the Justice Department's procedures for handling criminal referrals from the RTC. It also remains unclear what the timing was of the Justice Department's declination of the Madison criminal-related referrals.

I believe that for a thorough investigation of this matter, we must make a determination and report to the American taxpayers about how the criminal referrals are handled by the Justice Department and whether they were handled properly in the Madison case. The American taxpayers should not have to pay one more dollar than necessary to resolve Madison Guaranty. This clearly relates to the Washington phase of the investigation. We are apparently, based on the discussions previously, going to be precluded from asking the Department of Justice about this case on the theory that the special counsel did not look into it; therefore, we cannot look into it. Well, the only reason we got the special counsel into it in the first place was that we had officials before the Banking Committee who represented the RTC and Treasury, and we were able to ask the questions. Sometimes asking questions and exposing these materials to the light of day can bring some amazing consequences.

Are we to be shut out from asking how the Department of Justice handled this, and how all of the appointees of the Clinton administration handled them? Well, if the second-degree amendment by the majority leader is adopted, we will not even get a chance to vote on this issue.

Mr. President, I suggest that the American people ought to sense that somebody has a real desire to keep Congress and the American people from knowing what went on. We have seen in the past in this body vigorously pursued investigations of the administration, the executive branch, when it was in Republican hands. Somehow that zeal for investigation has waned with the change of party in the White House.

I urge my colleagues to disapprove the second-degree amendment, to show some courage, and to say that, yes, we would like to know whether the Justice Department acted properly in handling these referrals, and whether they had any contacts, communications, or other transactions with the White House during the time that these criminal referrals were under consideration, and afterward.

Mr. President, these are very serious matters. The American people have a right to know, and I think we can do better than stonewall them and say: You cannot ask the Department of Justice anything, because the special counsel, Mr. Fiske, was not involved in investigations of the Justice Department.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. 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. BOND. Mr. President, I ask unanimous consent that the time be equally charged to both sides under the quorum call.

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

Mr. BOND. I ask how much time is remaining.

The PRESIDING OFFICER. The Senator's side of the aisle controls 5 minutes 15 seconds, and the majority side has 16 minutes 30 seconds.

Mr. BOND. I thank the Chair.

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

Mr. BOND. 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.

Mr. MITCHELL. Mr. President, the issue before us is once again identical to the issue which we have previously debated and voted on in the Senate over the past few days. I believe this will now be the sixth or seventh vote that will deal with the same issue.

As I stated earlier, Senator D'AMATO offered an amendment which attempted to establish a broad scope for the hearings far beyond that of the subjects covered in the first phase of the special counsel's investigation.

I believe his amendment directly contradicts the action taken by the Senate by a vote of 98 to 0 in March, and directly contradicts the request of the special counsel that the hearings to be conducted at this time be limited to those subjects which are covered in the first phase of the special counsel's investigation.

I offered to our Republican colleagues to have a vote on Senator D'AMATO's amendment and one on mine. They refused that. Therefore, Senator D'AMATO offered his amendment to the airport improvements bill, and I then offered mine as a second-degree amendment to his.

The Senate adopted my amendment by a vote of 56 to 43, thereby rejecting Senator D'AMATO's amendment.

Now what has happened is our colleagues have come in and are offering as separate amendments individual provisions out of Senator D'AMATO's amendment, and this is, I think, the fifth or sixth time they have done that.

The amendment offered by Senator BOND appears at page 4, lines 8 through 11, and page 6, lines 4 through 9, of the D'Amato amendment. That is to say, it is virtually word for word lifted out of an amendment that the Senate has already rejected in a manner identical to

that pursued in the previous amendment by Senator SPECTER, and by the various other amendments offered earlier.

So there really is not much to say. We are now having the same debate for the seventh time, and we will have the same vote for the seventh time. And I guess we will have it as long as our Republican colleagues want to continue to offer amendments in the same pattern and debate the same issue and vote on the same issue.

Let me, if I might, in just a few minutes explain again what I believe the proper course of action should be.

A special counsel was appointed to investigate the so-called Whitewater matter. The special counsel is himself a Republican, a life-long Republican, a man of experience and integrity, whose appointment was praised by Republican Senators.

He has requested in writing and in meetings with Senators and other public statements that the Senate not conduct hearings which could interfere with or undermine his investigation, and he has specifically requested that since his investigation is being conducted in two phases, the Senate's hearings be conducted in phases, and that the first phase of the Senate hearings be limited to those subjects covered in the first phase of his investigation.

The amendment offered by Senator D'AMATO, already rejected by the Senate, specifically contradicts the special counsel's request by attempting to have the hearings now go far beyond the subjects covered in the first phase of the special counsel's investigation, and also contradicts the vote in the Senate in March where, by a vote of 98 to 0, the Senate voted:

The hearings should be structured and sequenced in such a manner that in the judgment of the leaders they would not interfere with the ongoing investigation of special counsel Robert B. Fiske, Jr.

In the amendment preceding this one, a new twist was given to the matter. It was suggested that since the special counsel had not specifically objected to a certain subject, it ought to be included in this investigation and, therefore, the preceding amendment permitted an inquiry into Federal banking authorities, Federal regulatory authorities and, in the words of that amendment, any Federal agency.

I think that demonstrates the extreme nature of the unlimited fishing expedition that is being proposed here. There is an almost infinite and unlimited number of subjects to which the special counsel has not specifically objected. If we adopt that line of theory, we could have a hearing that could investigate the subject of gravity, offshore drilling for oil off California, Mrs. Clinton's childhood schooling—almost anything.

The real issue is, are we going to conduct a serious and responsible investigation that will, in fact, be consistent with both the actions taken by the Senate in March by a vote of 98 to 0, and the specific written and oral requests of the special counsel that our hearings not delve into matters beyond the scope of the first phase of his investigation.

That is really the issue. It has been the issue all along. The Senate has already voted on it several times.

I urge my colleagues to again reject the approach contained in this amendment, and I hope at some point we will be permitted to proceed and get on with the Senate's business. We are now in the 4th full day of this matter, stretching over a period of 6 calendar days, and I think that we have an important bill, the airport improvement bill, which provides funding for airports all across the country. This has nothing to do with that.

I proposed that we take this matter up freestanding and unrelated, and that we have a vote on the Republican amendment and a vote on mine, and our colleagues rejected that offer and insisted instead that it be offered as an amendment to an unrelated bill, thereby delaying the airport improvement bill, and I think unwisely and needlessly delaying the Senate.

We have now been 4 full legislative days debating the same issue, voting on the same issue, over and over and over again, and the Senate has expressed itself clearly and consistently.

I hope that the Senate will do so again in the case of these two amendments.

Mr. President, I yield the floor, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I may require.

I would like to ask if the distinguished majority leader would be willing to answer several questions I have, to help me understand his position.

Mr. MITCHELL. I apologize. I was discussing another matter with my staff.

Does the Senator seek my attention? Certainly.

Mr. BOND. I thank the majority leader.

Mr. President, I ask the majority leader, since the special counsel is not investigating contacts by the Department of Justice, under the second-degree amendment offered by the distinguished majority leader, would I be allowed to ask the Justice Department officials about how they handled the referral under his amendments?

Mr. MITCHELL. The Senator would be permitted to ask questions that are related directly to the subjects covered in the first phase of the special counsel's investigation.

I will, in just a moment, if I can, get a copy of the amendment in my hand and read those to you.

Page 2 of the amendment includes the following matters which are concurrent with the subjects of the first phase of the special counsel's investigation. They involve:

First, communications between officials of the White House and the Department of the Treasury or the Resolution Trust Corporation relating to the Whitewater Development Corp. and the Madison Guaranty Savings & Loan Association; second, the Park Service police investigation into the death of White House Deputy Counsel Vincent Foster; and, third, the way in which White House officials handled documents in the office of White House Deputy Counsel Vincent Foster at the time of his death.

Any questions that are reasonably related to those subject matters would obviously be permitted.

Mr. BOND. Mr. President, I would ask the majority leader, since the White House special counsel's investigation is not relating to the Department of Justice contacts, and since, as I laid out on the floor yesterday four specific requests I made of the RTC and they said that any questions about this matter must come from the Department of Justice, why will we not be able to ask those questions under the amendment proposed by the majority leader, why will we not be able to ask about the activities of Mr. Web Hubbell, Mrs. Paula Casey, and why we should not be able to do so under our general oversight authority?

Mr. MITCHELL. Mr. President, I will be pleased to answer that question again. I have done so several times over the past few days.

The special counsel has made clear that it is his desire that the hearings conducted at this time be limited to the subjects of the first phase of his investigation.

Now, it is quite clear, and we have a respectful disagreement, that my colleague and our Republican colleagues want to go beyond that. In fact, the amendments offered would permit inquiries into virtually any subject involving any Federal agency and involving a wide range of subjects that we believe do not have anything to do with this matter; that the purpose is to engage in a fishing expedition for political reasons.

Now, that is what we have discussed. That is what we have debated. That is what we voted on. We can debate it and ask and answer questions from now, in the colloquial phrase used in Maine, until the cows come home, but it is not going to change the issue.

The PRESIDING OFFICER. The Senator's time has expired.

The majority leader has time remaining.

Mr. MITCHELL. I will be glad to yield some of my time to the Senator from Missouri if he wants to take a few more minutes.

Mr. BOND. I appreciate that generous offer. I had just a few more questions to ask the majority leader and I would be honored to do so on his time.

The majority leader referred to a broad fishing expedition. The amendment I offered relates to the full facts about the Department of Justice's handling of the Resolution Trust Corporation criminal referrals relating to the Madison Guaranty Savings & Loan Association. To me, this is not a broad fishing expedition.

But, is it not the case, I would ask the majority leader, that Congress traditionally has the right to ask questions about any area of Federal Government activity? I ask that as the first question.

The second question is: When the special counsel has not begun any investigation into the Department of Justice contacts, why would Mr. Fiske want to preclude us from asking questions? The questions that we asked in the Banking Committee of the RTC started this investigation. We might be able to bring more light on the subject through questions.

I would ask if there is any specific indication the majority leader has had from the special counsel that we should not pursue questions that are not the subject of his investigation?

Mr. MITCHELL. Mr. President, I have had no discussion or contact whatever with the special counsel, so my impression of his position is drawn from his public statements and documents.

We have made a complete circle and we are right now back at the beginning. This is almost word for word the discussion I had previously with Senator SPECTER. I respect the fact Senator BOND was not here then, but we have been through the same discussion.

The approach taken by the Senator in his question is that if the special counsel has not objected specifically to a subject, we ought to get into it. This came up earlier today when we had an amendment asking for an investigation into some transactions that Mrs. Clinton engaged in 10 to 15 years ago. He has not objected to that because it has nothing to do with this.

The comment was made then, not by me but by someone else, well, the special counsel has not specifically objected to the fact that Mrs. Clinton tried to join the Marines. And I suppose, under the Senator's reasoning, we should now have an investigation of her efforts to join the Marines.

We approach it from the opposite point of view; that is, from the affirmative point of view. And it is that these hearings should be conducted in a manner that they are structured and sequenced so as not to interfere with his investigation and be limited to the subjects of his investigation. That is what we have done.

Now, we are really right back at the beginning where the Senator wants to

get into other matters. We have amendments here for any Federal agency, all banking authorities, all regulatory authorities.

We just disagree. I understand the Senator's desire that it ought to go broader.

Let me say finally, because our time is up and we are going to vote in just a minute, that the Senator just made a point that the Banking Committee previously conducted the hearings into this matter. I know the Senator from Missouri is a member of that committee. And it affirms my point in another difference between us on where these hearings should be conducted.

We think the Banking Committee is the appropriate committee. According to the Senator's own assertion, it has previously held hearings on this matter. Unfortunately, our colleagues do not want it held in the Banking Committee and under the established rules, practices, and procedures of the Senate, but want to create an entirely new committee, one without precedent in the Senate, and want to invest powers in the minority members of the committee that have never been granted to minority members in the more than 200-year history of the Senate.

I appreciate his comments with respect to the Banking Committee, because I interpret them—although I understand he may have not intended them that way—as supportive of the position we have taken on another major difference between us; that is to say, that these hearings ought to be conducted in accordance with the rules, the practices, and the procedures of the Senate. That is what we have proposed.

We have a committee which has jurisdiction over these matters which, according to the Senator from Missouri, is the committee which has held previous hearings on the matter and, according to him, has developed valuable information in the conduct of that hearing.

Now along come our colleagues who say, "We do not want the hearings to be held there. We don't want it to be held in accordance with the regular rules, practices, and procedures of the Senate. We want to create this whole new mechanism which is without precedent, and we want to create new rules and create new powers which have never existed in the more than 200 years of the Senate's history."

That is another major difference between us.

I thank the Senator for his comment. Mr. President, has my time expired?

The PRESIDING OFFICER. The Senator has about a minute remaining.

Mr. MITCHELL. Well, I will conclude, Mr. President, by repeating for the umpteenth time—I threatened earlier that since all of these amendments say essentially the same thing, and since the debate is the same thing, and

since I have said it so often, that to test my memory, I am going to recite this statement backward at one of these points, because we really have here the same issue that has been discussed, that has been debated, and that has been voted on by the Senate.

It deals with the proper scope of the investigation. I understand the arguments made by my colleagues. I respectfully disagree. I think that the resolution which the Senate has already voted on is the proper way to proceed, consistent with the Senate's rules, consistent with the Senate's practices, consistent with what the Senate has already done on this subject, and consistent with the Senate's vote in March, and consistent with the special counsel's request.

By contrast, our colleagues propose a procedure that is inconsistent with all of the above: inconsistent with the Senate's rules, inconsistent with the Senate's practices and procedures, inconsistent with the Senate's previous vote, and inconsistent with the special counsel's request.

I yield the floor.
The PRESIDING OFFICER. The time of the Senator has expired.

The question is on amendment No. 1789 offered by the majority leader. The yeas and nays have been ordered.

The clerk will call the roll.
The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 143 Leg.]

YEAS—55

Akaka	Feinstein	Mitchell
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boren	Heflin	Nunn
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Breaux	Johnston	Reid
Bryan	Kennedy	Riegle
Bumpers	Kerrey	Robb
Byrd	Kerry	Rockefeller
Campbell	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Daschle	Leahy	Shelby
DeConcini	Levin	Simon
Dodd	Lieberman	Wellstone
Dorgan	Mathews	Wofford
Exon	Metzenbaum	
Feingold	Mikulski	

NAYS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

NOT VOTING—1

Harkin

So the amendment (No. 1789) was agreed to.

VOTE ON AMENDMENT NO. 1788, AS AMENDED

The PRESIDING OFFICER. Next we will vote on the underlying Specter amendment, amendment No. 1788, as amended.

So the amendment (No. 1788), as amended, was agreed to.

VOTE ON AMENDMENT NO. 1791 TO AMENDMENT NO. 1790

The PRESIDING OFFICER. Under the previous order, amendment No. 1791 is now in order. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Iowa [Mr. HARKIN] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—55

Akaka	Feinstein	Mitchell
Baucus	Ford	Moseley-Braun
Biden	Glenn	Moynihan
Bingaman	Graham	Murray
Boren	Heflin	Nunn
Boxer	Hollings	Pell
Bradley	Inouye	Pryor
Breaux	Johnston	Reid
Bryan	Kennedy	Riegle
Bumpers	Kerrey	Robb
Byrd	Kerry	Rockefeller
Campbell	Kohl	Sarbanes
Conrad	Lautenberg	Sasser
Daschle	Leahy	Shelby
DeConcini	Levin	Simon
Dodd	Lieberman	Wellstone
Dorgan	Mathews	Wofford
Exon	Metzenbaum	
Feingold	Mikulski	

NAYS—44

Bennett	Faircloth	McCain
Bond	Gorton	McConnell
Brown	Gramm	Murkowski
Burns	Grassley	Nickles
Chafee	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	

NOT VOTING—1

Harkin

So the amendment (No. 1791) was agreed to.

Mr. MITCHELL. Mr. President, am I correct that under the previous order the Senate will now vote on the underlying amendment, as amended?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. The question occurs on the underlying amendment.

The amendment (No. 1790) was agreed to.

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.

Mr. MITCHELL. Mr. President, the Senate has now debated and voted on the same issue about seven times. I do not know how many more times the Senate will be asked to do so. My hope is that, given the fact that the Senate has already voted on the same issue seven times and voted clearly and consistently in the same manner, the Senate can proceed to complete action on this amendment, which would establish the authority for the hearings our colleagues say they want and then would permit us to complete action on the very important bill dealing with airport improvements, which will provide funding for airport improvements around the country.

As I have previously indicated, the Senate will remain in session this week until we complete action on the airport improvement bill and on the legislative appropriations bill, even if that requires a very late night tonight and a very late night tomorrow night and a very long day on Friday.

We are soon reaching the point where the press of business on the Senate will be immense. We are required by law to act on 13 appropriations measures prior to the end of the fiscal year. Those are the essential work of the legislative branch of Government, and we are going to begin the first one tomorrow, if we can finish this bill this evening.

I recognize that there is a difference of opinion on this, but I believe we have now reached the point where a continuation of this practice of offering amendments, which are obviously going to be defeated, which are clearly repetitious of the subject previously debated and decided, is unjustified and wasteful of the Senate's time and the money it costs to operate the Senate.

Obviously, under the rules of the Senate, any Senator can offer any amendment any time he or she wants, and we have now become accustomed to the tactic of effectively filibustering by offering an unlimited number of amendments. But I think there is not even a pretense here, since the amendments deal with essentially the same subject that has been discussed, debated, and voted on so many times.

I hope very much that we can complete action. I regret the inconvenience to Senators that we will have to remain in session as late as we are now and will have to later this evening. But I simply state that, if we are going to keep having these amendments, we are going to keep voting.

It is not my intention that there be unlimited delay without votes. Several Senators, both Republicans and Democrats, have commitments in the evening and have asked for a period of time within which no votes will occur, and I have assured them and advised the minority staff, so they have advised Republican Senators as well, that there will be no votes this evening prior to 8:30. That is to say, Senators

may be assured that for the next 1 hour 15 minutes there will not be any votes. The next vote may not occur at 8:30; it may be later than that. I hope that we can, as we have this afternoon, have amendments called up, debated, and have two or three votes stacked at a time certain, and that will make it less inconvenient for Senators who are engaged in other matters this evening.

I have asked that our colleagues on the other side, who indicate they have amendments to offer, be prepared to do so during this period. In the meantime, the Senator from Washington has an important matter that he wishes to address the Senate on.

I ask unanimous consent that Senator GORTON be recognized to address the Senate as in morning business for 10 minutes, following which I hope we will be prepared to proceed with one or more amendments, and at that time I hope to set the schedule for the next vote or votes in the Senate.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

The Senator from Washington is recognized for up to 10 minutes as in morning business.

THE UNITED STATES-CANADA PACIFIC SALMON TREATY

Mr. GORTON. Mr. President, my colleagues are well aware of the important place that the Pacific salmon occupies in the economy and culture of the Pacific Northwest. I have spoken often on this floor about our difficult struggle to enhance declining salmon runs without devastating families and communities, many of which have come to depend on the same water and habitat as the salmon.

I have discussed this issue over the years with a myriad of fisheries experts within the region. Many have differences on individual recovery measures, but nearly all agree that it is critical for the United States and Canada to manage effectively the harvest of each other's native salmon stocks. In fact, the recovery team commissioned by the National Marine Fisheries Service to draft a recovery plan for threatened and endangered Snake River salmon stocks identified reducing Canadian harvest as a high priority.

Since 1985, this harvest has been managed under the provisions of the United States-Canada Pacific Salmon Treaty. I played a role in negotiating and implementing this treaty during my first term in the Senate, so it is particularly disappointing to me that negotiations on annexes to the treaty have collapsed. Canada has walked away from the negotiating table, asserting that the United States has not bargained in good faith with regard to equity—a seemingly simple principle of

the treaty that in reality is highly complex.

Among other things, Canada wants a reduction in the United States harvest of Canadian fish in Puget Sound and southeast Alaska. The United States wants to reduce the Canadian take of fragile coho and chinook runs that originate in Washington, Oregon, Idaho, and California. There are numbers of ways by which we can reach these goals, but they must all eventually be determined at the negotiating table.

Canada cannot and should not expect to reach agreement with the United States by going outside the treaty process. But that is nevertheless what Canada has announced it will do—and is now doing.

United States net fishermen were outraged to learn last week that Canada intends to charge each American vessel \$1,100 to travel through the Canadian Inside Passage on its way to Alaskan fishing grounds. This action seems clearly to be a violation of international law, and imposes a severe safety hazard on those boats that choose not to pay the fee and instead travel to Alaska through the dangerous open waters west of Vancouver Island.

Arguments about the United States-Canada treaty are best left for the negotiating table—that is where they belong. The outrageous decision taken by the Canadian Government does not facilitate those negotiations, it is not consistent with the long tradition of peaceful and amicable relations between our nations; it is unworthy of the government of Canada.

It divides us. It tears apart our fishing communities, and makes it more difficult for us to resolve the highly complex problem of jointly managing our salmon fisheries.

It is also dangerous. I have received news in the last several hours that Canada has seized one or more American vessels and is holding them in Canadian ports. Rumors are rampant in the United States fishing community, and tempers are flaring.

Mr. President, nothing good can come of this. Some have said that it is not time to point fingers at the Canadians. I disagree. Canada has implemented a policy that the United States State Department has determined to be illegal. Canada has seized at least one United States vessel. While it is certainly not time for irresponsible action, it is time for strong action. The President must take a leadership role.

I am therefore about to introduce a resolution to protest the transit license fee. The resolution calls for U.S. fishermen to be reimbursed for payment of the fee from the fishermen's protective fund, and calls for the Fishermen's Protective Act to be amended so that vessels do not have to be seized to permit reimbursement.

The resolution also calls on the President to provide for the safety of

the United States fishing fleet, and to take actions necessary to encourage Canada to discontinue the transit license fee.

Finally, the resolution calls on the President to redouble his efforts to negotiate an agreement with Canada that provides for appropriate management and conservation of both countries' fisheries.

We need the hand of presidential leadership to steer us toward a resolution of the issues. Only the President can speak for all of the United States. Only the President can express our deep concern with the grave and provocative actions of the Canadian Government. The President must act now.

This resolution now represents my views and those of Senator STEVENS, Senator HATFIELD, Senator MURKOWSKI, Senator PACKWOOD, Senator CRAIG, and Senator KEMPTHORNE. We will defer the introduction of the resolution, however, to secure more and bipartisan sponsorship up and down the Pacific coast, and in order to seek the unanimous consent necessary to pass the resolution promptly, support which we urge from all of our colleagues.

The resolution demonstrates that Washington, Oregon, Idaho, and Alaska will not be divided by punitive illegal measures such as the transit license fee that endangers U.S. citizens. We are united on this matter and will work together to ensure this outrageous policy and the seizures are reversed.

The resolution also makes it absolutely clear it is at the negotiating table and not anyplace else that Canada and the United States can make a deal on the Pacific Salmon Treaty that will protect salmon for both countries.

I ask my colleagues for their support of this resolution and ask for its prompt consideration.

I thank the majority leader for his courtesy in granting me the time.

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

The Senate continued with the consideration of the bill.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, the distinguished Senator from Missouri and I have discussed how best to proceed now, and I merely wanted to con-

firm our understanding that he is going to speak for some minutes and then offer an amendment. Am I correct in my understanding?

Mr. BOND. Mr. President, that is correct.

Mr. MITCHELL. Mr. President, at that point I will put in a quorum call and be prepared with a second-degree amendment, and I will appreciate the Senator notifying me when he gets to the point where he intends to do so.

Mr. BOND. Mr. President, I will be happy to consent to that for the convenience of the majority leader.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Thank you very much, Mr. President.

Mr. President, we discussed at length some very important matters in the debate on the last amendment, and I thought it might be helpful to go over the status of these discussions, where they are, and how we got to this point.

The majority leader made a very eloquent argument against the D'Amato amendment. But the amendment that was essentially vitiated by his second-degree amendment was not a broad fishing amendment. It was not designed to go far afield. In fact, as I stated at the time, it said that the committee should conduct an investigation into, study of, and hearings on, matters having a tendency to reveal the full facts about the Department of Justice handling of the Resolution Trust Corporation criminal referrals relating to Madison Guaranty Savings & Loan Association.

My point was that this was clearly relevant to the issues of what was done in Washington by this administration with respect to the activities in Arkansas generally lumped under the category of Whitewater. This was a very specifically targeted amendment dealing with what had gone on with the Department of Justice. The majority leader's second-degree amendments and proposals have specifically excluded inquiry into the activities of the Department of Justice.

As I understood the majority leader to say, number one, this was somehow outside the scope of the resolution adopted by this body 98 to 0 on March 17, 1994.

So I went back to get a copy from the CONGRESSIONAL RECORD of that resolution. It says in part (B):

The majority leader and the Republican leader should meet and determine the appropriate timetable, procedures, and forum for appropriate congressional oversight, including hearings on all matters related to Madison Guaranty Savings & Loan Association, Whitewater Development Corp., and Capital Management Services, Inc.

And I end my quotation of that resolution.

My amendment was not a broad fishing expedition. It was not an attempt to go beyond the Washington activities

related to Whitewater and Madison Guaranty Savings & Loan Association. It specifically asked that we be allowed to question representatives of the Department of Justice about whether they knew about Whitewater, what they did about Whitewater, who did they discuss the Whitewater investigations with, the Madison Guaranty Savings & Loan Association, and other activities.

The first set of criminal referrals to the Department of Justice arrived sometime in September 1992.

Now the President's very close friend and confidant, Webster Hubbell, arrived at the Department of Justice with the new administration early in 1993. Are we to believe that he did not know anything about a criminal referral potentially involving the President in his prior capacity? If he knew, did he, in fact, take any steps with respect to that referral? Did he, in fact, advise the President of it?

I understand that the President said the first he learned about the possibility of criminal referrals was sometime in the fall of 1993. This may be true but, Mr. President, I think there are some very legitimate questions we ought to ask. It was pursuing questions like this that we uncovered the contacts between the RTC, the Treasury, and the White House which led to the subpoenas and led to significant inquiries.

These are legitimate questions that we need to know the answers to in order to determine, in our role of congressional oversight, whether there was any wrongdoing with respect to the handling by this administration of the matters relating to Whitewater.

As a result of the second-degree amendment which was adopted on a party line vote, we will be precluded from asking the questions and the public will be precluded from hearing the questions and the answers.

Now, we further understand from the statements of the majority leader that he has not spoken to Mr. Fiske about these amendments being offered today and the previous days on this measure, the D'Amato amendment. Therefore, I can assume it is from information, press statements, and letters. We have not been advised of any directive from Mr. Fiske saying that he has any objection to our questioning the Department of Justice about their handling of these matters.

My amendment to expand the majority leader's narrow scope at least to include the Department of Justice's handling of the RTC criminal referrals on Madison was defeated based on what I guess we can call intuition as to what Mr. Fiske wants or does not want.

This is beginning to be a transparent charade.

No. 1, we are to limit hearings to things Mr. Fiske is finished with without even knowing what he is doing. No.

2, we are then to limit the hearings to those things he addresses in phase II. And, three, somehow we are never allowed hearings on things that Mr. Fiske does not address.

Now, we talk about unprecedented activities. To say that Congress, in its oversight role looking at the activities of the administration of the Federal Government, is somehow limited to doing a review and grading of the special counsel's work is, I think, a novel precedent.

Our oversight is supposed to be limited to what the special counsel is investigating for criminal wrongdoing? I think not. I think there are many other questions that we could and should and must address.

My amendment was very specifically targeted to those questions from the Department of Justice that could be relevant.

Yesterday, I discussed at some length my questions to the RTC. The questions which brought about the subpoenas revealed the contacts between the RTC and the Treasury and the White House. I subsequently submitted written questions to the RTC.

I asked, first, is it normal RTC practice to send additional investigators for further investigations on a matter before hearing the status of the first referral?

The answer to that by the RTC: "There is no standardized procedure in this regard. Any questions concerning responses from the Department of Justice should be directed to the Department of Justice."

Further questions I addressed to the RTC focused on a March 19, 1993, memo from the criminal division of Justice, concluding the initial RTC criminal referral on the Madison probe did not appear to warrant initiation of criminal investigations. I asked: "A, how was this decision made in terms of the decisionmaking procedure and the underlying legal theory and, B, who is responsible for communicating these decisions?"

The RTC response to me was: "A: This question should be directed to the Department of Justice. B: This question should be directed to the Department of Justice."

I then asked the question about press reports that the local Federal attorney in Little Rock was concerned that in 1992, because Bill Clinton was included in a referral of the decision to pursue, the case should be made in Washington. And he sent an urgent letter on October 7, 1992, asking for assistance. I asked, "Are the press reports accurate?" And the answer to this one was, "The question should be directed to the Department of Justice."

I further asked about Attorney General Barr in the previous administration, his concern that pursuing the case 1 month before the leaks would look as if the Justice Department was

being politicized. So he sent the referral to career people. I asked the RTC, "Is this the RTC's understanding of the events? If not, what is your understanding?" The answer was, "These questions should be directed to the Department of Justice."

Now, Mr. President, these are questions that we have been told by the RTC, whom we sought to question before the Banking Committee and in written questions following up on their testimony, these are questions the RTC said can only be asked of the Department of Justice.

As I understood the distinguished majority leader in his response to my questions, I would not, under his proposal, be permitted to ask the Department of Justice about these specific items to which I was referred by the RTC for the very strange and unusual reasoning that they were not included in the special counsel's investigation.

This is absurd, Mr. President. Congress is supposed to hold oversight hearings to ensure that programs are running fairly, that people are not abusing the power they hold, that special favors are not being handed out to the select.

Now we are told: Too bad if it turns out that the Department of Justice grossly misused its powers in this case; too bad if it turns out that Webb Hubbell or others misused their authority to protect the President; too bad if the politically powerful got special favors from the Department of Justice. Congress is not going to be allowed to ask questions because Mr. Fiske, an appointee of the Justice Department, says so. To me this is an outrage.

These facts, more than any others, show why this entire hearing proposed by the Democratic majority is a charade and a political sideshow.

The majority leader has now come out and said he does not believe a 98-to-nothing resolution, which says all matters relating—and this is the test he created, one that has taken 4 days of debate to ferret out—and that is, if Mr. Fiske does not care, the majority does not care; and if Mr. Fiske is not finished, Congress cannot start.

I have introduced this amendment and I will shortly propose another amendment dealing specifically with the items in that 98-to-nothing resolution of March 17. Because if the limited scope of hearings proposed, and reiterated and reiterated and reiterated by the majority leader, is not changed, there will be no ability to ask these very relevant questions relating specifically to the Washington phase of the Whitewater investigation.

I do not intend to submit my list of questions to Mr. Fiske to get his approval. I also expect that we will have an opportunity to address those questions.

I have been taken with the compelling nature of several quotations which

we have previously brought to the floor. A very thoughtful statement in 1991 on the need for congressional hearings on a proposed October Surprise:

We have no conclusive evidence of wrongdoing, but the seriousness of the allegations, and the weight of circumstantial information, compel an effort to establish the facts.

And the powerful statement came from the majority leader and the Speaker of the House.

Another statement on November 22, 1991, in this body said:

That is what this inquiry is intended to establish. I think it raises a question, a fundamental question, in everyone's mind. If one is so opposed to trying to find out the facts, the question arises: What are they trying to hide? Why are they so afraid of an inquiry? What is it that they are trying to conceal?

Those were made by the distinguished majority leader on November 22, 1991, in a floor speech on the October Surprise.

Mr. President, I think those questions are very appropriate questions to raise now.

AMENDMENT NO. 1792

(Purpose: To authorize hearings on the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corp.)

Mr. BOND. Now, to accommodate the majority leader, I have assured him that, as we just discussed, there will be an opportunity to follow the procedure which we have developed, with which I do not agree, but that is the procedure that we are following.

I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 1792.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation.

Mr. MITCHELL addressed the Chair. The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 1793 TO AMENDMENT NO. 1792

Mr. MITCHELL. I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL] proposes an amendment numbered 1793 to amendment No. 1792.

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

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

The amendment is as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. MITCHELL. Mr. President, I would like to direct a question to the Senator from Missouri through the Chair.

Did I understand that the Senator has a second amendment which he will offer?

Mr. BOND. Mr. President, one of my colleagues has an amendment. We have not been able to reach him. He was planning to be here by about 8:30. We are attempting to contact him to see if he has that amendment ready. I am not at this point able to produce that amendment. I apologize, but I have not been able to reach him.

Mr. MITCHELL. Mr. President, I am trying to reduce the inconvenience to other Senators, and my effort is to have two amendments debated and then have those votes stacked in succession to give those Senators who are not present and attending to other duties a longer opportunity to do so.

What I would like to suggest is that we agree on a time limit on the amendment of the Senator from Missouri of 30 or 40 minutes, equally divided, and then at or before the expiration of that time, if the Senator would be ready either on his own or in behalf of another Senator with a second amendment, we could have that amendment presented and debated for a similar length of time and then vote on both of those at about 8:45 to 9.

I wonder whether that is satisfactory to the Senator?

Mr. BOND. Excuse me, Mr. President, I was conferring with some others. I did not get the full import of the majority leader's statement.

I would agree to 45 minutes, equally divided, which would put us at 8:30,

when my colleague would be ready to offer his amendment.

If the majority leader wishes to set a later time for the vote on the two amendments, I at this point know of no objection on our side. If the majority leader wishes to do that, I will look for any contrary indication.

At this point I seem to see none.

Mr. MITCHELL. Mr. President, in order to accommodate the largest number of Senators, what I will do momentarily is to propose that we do 40 minutes, equally divided, on our amendments, at which time another Senator or designee be recognized on that side to offer an amendment which would also be the subject of a 40-minute agreement, and then Senators would have the assurance that there would be two votes after the expiration of the 80 minutes.

Is that agreeable? May I have some assurance that there will be a second amendment after the 40 minutes of debate on this amendment has expired?

Mr. BOND. Mr. President, I am advised that the Senator from Kentucky, Mr. McCONNELL, will have an amendment and will be ready to proceed about 8:30.

I will certainly do all I can to see that that amendment proceeds in an expeditious fashion.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Then, Mr. President, I ask unanimous consent that there now be 45 minutes for debate on the amendments offered by Senator BOND and myself with the time equally divided between us; that at 8:30 p.m., the Bond amendment and my amendment to that amendment be set aside and that Senator McCONNELL or his designee be recognized to offer an amendment, that I or my designee be recognized to offer a second-degree amendment to that amendment, and those amendments then be debated for 40 minutes and that at the completion of that 40 minutes, or at 9:10 p.m. this evening, the Senate vote on the pending Mitchell amendment; following the disposition of that amendment the Senate vote on the underlying Bond amendment as amended if amended; that following the disposition of that the Senate vote on the Mitchell amendment to the McConnell amendment; and that following the disposition of that amendment the Senate vote on the McConnell amendment as amended if amended; all of the above to occur without any intervening action or debate after 9:10 p.m.; and that the time, the 40 minutes of time for debate on the McConnell amendment and my amendment to his amendment, be equally divided between the Senator from Kentucky or his designee and myself or my designee.

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

Mr. MITCHELL. Mr. President, for the benefit of Senators who are not

present—and I assume some in their offices have been watching this—we now have pending an amendment by Senator BOND and my amendment to it. We have an assurance that Senator McCONNELL or his designee will be here at about 8:30 to offer another amendment and I or my designee will offer an amendment to that. That debate will go on until 9:10. So Senators should be notified that we now expect two votes to occur at 9:10 p.m. And that following those votes, if there are to be more amendments on this bill, then we are going to stay in session and consider those other amendments and have additional votes.

I thank my colleagues.

Does the Senator now wish to address his amendment? I will be pleased to yield the floor to him.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, for the RECORD, let me explain what my amendment, were it not to be second-degree, would do. This amendment is one very directly relating to the issues surrounding Whitewater. As the terms of the March 17, 1994 resolution, adopted 98 to 0, say, we shall have hearings "on all matters related to Madison Guaranty Savings and Loan Association, Whitewater Development Corporation, and Capital Management Services, Inc."

This is the Capital Management Services, Inc. portion of the request. This amendment expands the scope of the investigation to include matters relating to the sources of funding, the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation.

This amendment would authorize the committee to investigate all transactions involving David Hale and his SBA-licensed small business investment company, which is Capital Management Services, Inc., including the circumstances involving Mr. Hale's recent plea bargain with Special Prosecutor Fiske. David Hale, a former Arkansas municipal court judge, appointed by then-Governor Clinton, controlled Capital Management Services, Inc. Capital Management was a special small business investment company authorized to make loans to businesses at least 50-percent owned, controlled, and managed by socioeconomically disadvantaged individuals.

Judge Hale allegedly made a \$300,000 loan to Master Marketing, a company owned by one of the principals of Whitewater, one Susan McDougal. Part of the loan's proceeds may have been used to fund Whitewater-related activities.

On September 15, 1993 the SBA placed Judge Hale's company, Capital Management Services, in receivership for capital impairment.

Why is this of interest to this body? Why is this of interest to the people of America? Because the SBA, on whose oversight committee I happen to serve—the Small Business Committee—the SBA estimates that Capital Management's insolvency will cost the American taxpayers \$3.4 million. The taxpayers will have to pay the \$3.4 million cost of Capital Management's failure, and they have a right to know whether loans were improperly made and whether certain loan proceeds were used to fund Whitewater activities.

One of the questions involving Capital Management and David Hale that taxpayers need an answer to include: Were federally guaranteed SBA loans made directly or indirectly to fund Whitewater-related activities?

In March 1986, Whitewater entered into a contract to purchase an 810-acre tract of land south of Little Rock from International Paper Realty Co. One month later, in April of 1986, Capital Management made Susan McDougal's company, Master Marketing, a \$300,000 SBA-backed loan. According to a document provided by David Hale, \$193,000 of the \$300,000 loan to Susan McDougal was intended to be used to develop the land Whitewater had just purchased from International Paper.

Judge David Hale allegedly claims that Bill Clinton and James McDougal pressured him into making the \$300,000 loan to Susan McDougal. The \$300,000 loan to Susan McDougal's company was never repaid, and the SBA closed Capital Management in 1993.

To lay out the facts raises the kind of fundamental questions in everyone's mind that we in this body have sought to answer in previous congressional investigations of the executive branch. What I want to know in the offering of the second-degree amendment which is designed to wipe out and preclude the Banking Committee from asking these Whitewater-related questions of the SBA and others is, what is the amendment trying to hide? Why are its proponents so afraid of an inquiry? What is it that they, in this instance the majority, are trying to conceal?

If past practice is indicative, there will be a party-line vote to adopt a second-degree amendment that will wipe out all of the questions that I just asked.

These questions were questions that were initially approved by this body in the March 17, 1994 resolution which said that we should look into all matters relating to Whitewater and the Capital Management Services. These are questions that I think must rightfully be asked. I think the people of America have the right to expect to get clear answers from those who were involved, those who put taxpayers'

money at risk and those who caused a loss to taxpayers.

Mr. President, I yield the floor. I suggest the absence of a quorum and ask that time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, the Senate will now debate and vote for the eighth time on the same issue. The Senator from Missouri used three words that I think represent the best description of his amendment better than any I could use, and I will quote them: Absurd, charade, sideshow.

The Senate has now reached a point of an absurd charade that is a sideshow. We are now on the fourth full legislative day, stretching over 6 calendar days debating and voting over and over and over and over and over and over again on the same issue. This is a waste of time. It is a waste of taxpayers' money. It subjects the Senate to the kind of ridicule to which, unfortunately, the American people have become so accustomed.

An American citizen watching the Senate over the past several days might well ask: "Is this all they have to do? Do our Senators in Washington, DC, our Nation's Capital, have nothing better to do than to debate the same issue over and over and over again eight times and vote on the same issue over and over and over again eight times with the same result eight times?" And they would be right.

Let me go back and set the context of this amendment.

Earlier this year, our Republican colleagues requested the appointment of a special counsel to investigate the so-called Whitewater matter. A special counsel was appointed. He is a Republican, a lifelong Republican whose appointment was praised by our Republican colleagues. We were told by them that he is a man of experience and integrity, and they applauded his appointment.

Following his appointment, that special counsel, a lifelong Republican whose appointment was applauded by Republican Senators, requested in writing on his own initiative that the Senate not conduct hearings into matters that were the subject of his investigation because to do so might undermine his investigation and might make it impossible for him, if he finds wrongdoing, to prosecute and punish those responsible for the wrongdoing.

But immediately after the appointment of the special counsel, our Republican colleagues completely reverse

their course and begin calling for precisely those hearings which the special counsel asked not occur.

Why, Americans might ask, would they do such a thing? Why would they completely reverse their position on this matter after having gotten the appointment that they said they wanted of a person who is a member of their party and whose appointment they praised?

The answer has become clear in the subsequent events. They are not interested in a serious investigation. They want a political circus in which to attack and demean and harm the reputation of the President of the United States and the First Lady of the United States. That is what this is all about, and the American people know that.

Consistently, month after month, public opinion polls have reported that a large majority of Americans believe that the Republicans are doing this only for political purposes. What has happened in the last few days provides overwhelming evidence that the American public is right.

After they requested immediate hearings, contrary to the stated desires of the special counsel, whose appointment they initially praised, the Senate debated and discussed the matter. On March 17, the Senate voted by a vote of 98 to 0 that there would be hearings. "The hearings should be structured and sequenced in such a manner that in the judgment of the leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr." That was the Senate vote.

Now, along come our Republican colleagues, having voted for that resolution, and completely reverse their position again. They are demanding that hearings occur structured and sequenced in a way that would directly interfere with the investigation of the special counsel—another complete reversal of position.

In behalf of the Republicans, Senator D'AMATO offered an amendment to conduct hearings way beyond what the special counsel requested.

He asked that since his investigation is divided into two phases, the hearings conducted by the Congress be divided into two phases. And that when he finished the first phase of his investigation, the Congress hold the first phase of its hearings. And that when he then finished the second phase of his investigation, the Congress have hearings on the second phase.

The amendment offered by Republican colleagues did not do that. It wanted all of the subjects included in the first phase of the hearings, exactly what the special counsel asked not be done.

I then offered an alternative amendment which was consistent both with the Senate's vote of March 17 and with the special counsel's request, and I offered to our Republican colleagues to

bring the matter up as a separate bill and to let them have a vote on their amendment and we would have a vote on my amendment, and whatever the Senate voted would be accepted.

They rejected that offer. They did not accept an agreement under which they would get a vote on their amendment and we would have a vote on my amendment as a separate bill unrelated to other legislation.

Instead, they chose to offer their amendment to an unrelated bill, an airport improvements bill. I then offered my amendment as a second-degree amendment to theirs. We were ready to vote on it last Thursday. But after they, for weeks, said we want a vote on Whitewater, we want hearings on Whitewater, when we were ready to vote, they would not vote. They delayed a vote for 4 days, prevented a vote from occurring. The reason, when we got to the vote, was obvious. Their amendment was decisively rejected, and the alternative, which I proposed, was accepted.

Now what has happened since then, having lost on their amendment, they have now taken each paragraph of their overall amendment, lifted them out and offered them as separate amendments. That is to say, a subject which the Senate has already debated, voted on and rejected, is now being raised in separate, individual amendments for the obvious purpose of delay and obstruction.

The amendment which the Senate has already approved provides that we will have hearings on the subjects that are the first phase of the special counsel's investigation. That is what we voted to do in March, and that is what the special counsel has requested.

Our colleagues, by contrast, have come in here—this amendment is a perfect example—and sought to include in the first phase of the hearings the very subjects which the special counsel has said he does not want included in the first phase of these hearings because they are involved in the second phase of his investigation.

Now, over and over again our colleagues, and the Senator from Missouri himself, have called the proposal that I have made a sham. He has used that word several times.

Mr. President, just a few moments ago the bipartisan leadership of the House of Representatives has agreed to conduct hearings under an agreement which is virtually identical, almost word for word, with the proposal that I have made and the Senate has adopted.

Is it the Senator's contention that the House Republicans are participating in a sham? This agreement exposes our Republican colleagues in the Senate as engaging in obstruction, in absurd practices, solely for the purpose of delay and solely for the purpose of attacking the President and First Lady of the United States. That is their motive.

They have now had 4 days of flinging accusations at the President, some—and not the Senator from Missouri; I wish to make it clear—some making reckless, unsubstantiated, unproven allegations trying to link the President and Mrs. Clinton to lurid activities. So we heard here on the Senate floor in the course of this debate there have been four verified attempts on a person's life. We heard here on the Senate floor during this debate about "money laundering," and a number of other lurid accusations that are unsubstantiated, that there is no relationship whatsoever to the President and First Lady of the United States, but tossed out there in a classic example of innuendo.

All Americans have heard the word innuendo. Some may wonder what it actually means. The dictionary describes it as a veiled attempt to injure a person's character or reputation. That is what we have seen out here during the course of some of this debate by some of our colleagues.

Mr. President, we ought to get on with the business of the Senate and the country. The House Republicans and the House Democrats have reached an agreement to hold hearings that are in a form virtually identical to that which I have proposed and which the Senate has adopted. Why then, I ask, are our Republican colleagues in the Senate engaging in such obstruction and delay, wasting time, wasting taxpayers' money for no useful purpose, in a manner inconsistent with the vote of the Senate itself, for which our colleagues themselves voted, and inconsistent with the request of the special counsel?

Mr. President, lest there be any doubt about the actions of the House, I am going to read the statement from the joint leadership of the House. I ask my colleagues to compare it with the words of my amendment which the Senate has already adopted.

The bipartisan House leadership has reached agreement on holding several days of public hearings on three aspects of the so-called Whitewater investigation now being conducted by Special Counsel Robert B. Fiske, Jr. This agreement is consistent with the provisions of H. Res. 394, adopted by the House on March 22, 1994, which states that any hearings conducted by the House committees should be structured and sequenced so that they will "not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr." and is based on Mr. Fiske's statement to the bipartisan leadership that his review of those three areas is very close to conclusion and that Congressional inquiry into those three areas, once he has completed investigation into them, will not impede his overall investigation. Mr. Fiske has specifically asked the bipartisan leadership to refrain from Congressional in-

quiry into the other aspects of his investigation for now.

The three subjects of the public hearings will be: the White House contacts with Treasury/RTC officials about "Whitewater"-related matters; whether the death of Assistant White House Counsel Vincent Foster was a homicide or a suicide; and the White House's handling of the contents of Foster's office during the investigation into Foster's death.

The bipartisan leadership has agreed that hearings on these three areas will be held by the Committee on Banking, Finance and Urban Affairs and that all Members of the committee will have timely, equal access to necessary documents and may be assisted by staff of other committees of the House.

The hearings will begin within 30 days of notification by Mr. Fiske that he has completed his investigation into these three areas.

Mr. President, I repeat. This is almost exactly what I have proposed, what the Senate itself has adopted, and which our Republican colleagues in the Senate simply will not accept. Instead, after first clamoring for a vote, when confronted with the reality of a vote and the prospect of defeat, they delayed it for 4 days. And now that the vote has occurred, with an outcome contrary to their wishes, they have engaged in obstructionist tactics, wasting time, wasting money, wasting effort. For what end? The only end is to attack the President and Mrs. Clinton.

Well, I say to my colleagues that 4 days to attack the President and Mrs. Clinton, I think, is about enough. Why do we not pass the resolution that we have already voted on? The House Democratic and Republican leadership have completed agreement on it. They are going to proceed as I have suggested. If it is such a bad idea, why did they accept it in the House by the leadership of both parties?

Let us get on to complete action on this. Let us pass the airport improvement bill. Let us get to the rest of the work of the Senate. The American people expect us to do our work. We have to do 13 appropriations bills before the end of this fiscal year. I hope to start on one tomorrow.

We have to do health care. We have to do welfare reform. We have to do a crime bill. They did not send us here to debate and vote on the same issue 8 or 18 or 80 times. In their lives and in our Nation's business, when we make a decision, we make a decision, and we accept it and we go on. But we have made a decision, and I urge our colleagues to accept it. We have had the vote. In fact, we voted eight times, the same subject. Now we are going to vote on it two more times at 9 p.m. and 10 p.m. We will vote the 9th and 10th times on the very same issue.

Mr. President, I hope our colleagues will agree that 10 times voting on the

same issue is enough, and that we not waste any more of the Senate's time, that we not waste any more of the country's time, that we not waste any more of the taxpayers' money, that we complete action on this, that we emulate the House leadership and act in a responsible and reasonable way—not try to engage in a political circus, but act in a responsible and reasonable way to get this investigation underway, to get this bill behind us.

Mr. President, I yield the floor.

I reserve the remainder of my time.

I ask unanimous consent that the statement issued by the House of Representatives entitled "House Hearings on Whitewater" be printed in the RECORD.

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

HOUSE HEARINGS ON WHITEWATER

The bipartisan House leadership has reached agreement on holding several days of public hearings on three aspects of the so-called Whitewater investigation now being conducted by Special Counsel Robert B. Fiske, Jr. This agreement is consistent with the provisions of H. Res. 394, adopted by the House on March 22, 1994, which states that any hearings conducted by House committees should be structured and sequenced so that they will "not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr." and is based on Mr. Fiske's statement to the bipartisan leadership that his review of these three areas is very close to conclusion and that Congressional inquiry into these three areas, once he has completed investigation into them, will not impede his overall investigation. Mr. Fiske has specifically asked the bipartisan leadership to refrain from Congressional inquiry into the other aspects of his investigation for now.

The three subjects of the public hearings will be: the White House contacts with Treasury/RTC officials about "Whitewater"-related matters; whether the death of Assistant White House Counsel Vincent Foster was a homicide or a suicide; and the White House's handling of the contents of Foster's office during the investigation into Foster's death.

The bipartisan leadership has agreed that hearings on these three areas will be held by the Committee on Banking, Finance and Urban Affairs and that all Members of that Committee will have timely, equal access to necessary documents and may be assisted by staff of other committees of the House. The hearings will begin within thirty days of notification by Mr. Fiske that he has completed his investigation into these three areas.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Missouri.

Mr. BOND. Mr. President, may I ask how much time remains?

The PRESIDING OFFICER. The Senator has 14 minutes.

Mr. BOND. Mr. President, I yield myself such time as I may require.

Mr. President, several items that were raised by the distinguished majority leader I think merit some comment. He was correct saying that I did

use the terms "absurd", "charade", "sideshow." I think I probably even used "fig leaf" and "sham." Those were all terms that I believe I applied to the effort to second-degree all of the amendments offered on this side which are designed specifically to get at information which I believe this body has an obligation to explore because they relate to very clear potential acts of misdoing, wrongdoing by the administration.

I could not say it any better than the majority leader said it when he was arguing for investigations of the "October Surprise," and other things.

I call to my colleagues' attention that even when there were Republicans in the White House and Republicans in control of the Senate, we led full investigations on Iran-Contra, John Fedders at the SEC, Charles Wick at the USIA, and William Casey of the CIA. We were even able to walk and chew gum at the same time because we held concurrent investigations with the independent counsel and Congress. It is possible. We can do two things at once in this town. The EPA Superfund and Anne Buford were investigated by both an independent counsel and Congress. So was Michael Deaver, and so was Iran-Contra.

So it is quite possible that we can go forward with investigations even though the special counsel has undertaken investigations.

Let me be clear on one thing. The very first call, I believe, from our distinguished Republican leader, Senator DOLE, on December 21, 1993, was for full congressional hearings on the Whitewater matter. When the Department of Justice acted subsequently to appoint a special prosecutor—and certainly I was one who said, from everything I had heard about his reputation, that he is a very qualified person—when they appointed a special prosecutor to pursue and ferret out potential criminal wrongdoing, we thought that was a good step. But it did not change in any way the obligation that this body has to conduct oversight hearings into agencies over which we have authorizing legislative authority and appropriations authority. We have already set out in a number of instances why and where we believe that improper actions were taken in Washington, DC.

The majority leader has just developed a very powerful argument against an amendment I did not raise, against charges that I did not make. The special counsel did not look into contacts between the Department of Justice and the White House with respect to the criminal referrals or any of the matters relating to Whitewater. I believe that we have a responsibility to ask those questions. The special prosecutor has not been involved in those areas, to my knowledge.

To my knowledge, he certainly has not asked me, and according to the ma-

majority leader, he did not ask him not to hold investigations which question the Department of Justice, its officials, or former officials. That special prosecutor who said no when we asked, "Mother, may I?" does not work for the Department of Justice investigations. The special prosecutor does not have any veto over what we can look into.

The majority leader makes much of the actions he reports from the House of Representatives. So be it. If that is what that body wishes to do, that is fine. I believe that we have a responsibility to ask other questions. And that is why I have proposed an amendment, which was just second degree out of existence, to interview the Department of Justice to look into their activities and now to get into what the SBA was doing with respect specifically to Capital Management Services.

When we look at the money the taxpayers lost, it was not only through the federally insured savings and loan, it was also through an SBA-backed firm called Capital Management. It was not until the spring of 1993 that SBA determined the extent of problems that existed within Capital Management, and an internal investigation was begun of David Hale's practices.

On May 20, 1993, the SBA inspector general made a criminal referral on Capital Management Services to the Justice Department which then initiated an investigation. On July 20, 1993, the FBI received approval of a search warrant, and on July 21, they raided CMS and seized a series of loan files. Among the loan files seized was Master Marketing, the firm operated by Susan McDougal. Then on September 15, 1993, the SBA placed Capital Management Services, Inc. in receivership because of capital impairment. On September 23, David Hale was indicted for fraud.

What is important and relevant about these events? Why do we believe they should include a thorough review of David Hale and Capital Management Services? Well, Mr. Hale has claimed that the President's business partner in Whitewater Development, Jim McDougal, approached him about making a \$150,000 loan from CMS to McDougal. He then claims that shortly after that conversation, in early January 1986, he bumped into then-Governor Clinton and was asked by the Governor if he was going to be able to "help Jim out." Mr. Hale stated publicly that he was told that these funds were needed by McDougal to handle some irregularities which would otherwise show up in the next savings and loan audit of Madison Guaranty.

The Federal Home Loan Bank Board audit was due to occur in the March-April time period of 1986, and it became the audit which caused McDougal's ouster from the S&L and led, eventually, to the entire board being removed, as well as a series of prosecutions in which the head of Madison's

board pleaded guilty to falsifying loan records. Hale also claimed that in mid-February of 1986, he received a call from McDougal asking whether he would meet with him and then-Governor Clinton. Hale states that he met with them and was urged to help them out by making the loan.

It seems to me that as we try to get to the bottom of the case, Congress should have the right to ask questions about those alleged meetings and conversations. Criminal prosecutions have already gone forward in those areas. We are not looking at areas which might interfere with the special prosecutor's investigation because criminal charges have already been brought. The statements by Mr. Hale have been disputed both by the White House and McDougal. Thus, it makes sense to have an opportunity and a forum in which to lay out the claims and sort out the truth.

While there may be disputes about who talked to whom, there is no dispute as to what occurred next. On April 3, 1986, CMS loaned the \$300,000 to Susan McDougal. It was the largest loan made in the 7 years of CMS's existence, twice the size of previous loans. It was a 12-percent promissory note for \$300,000, a payment of interest only of \$36,000 for the first and second years, then \$14,000 a month, including interest, in subsequent years.

The check was deposited into a McDougal account at Madison Guaranty and, within days, over \$150,000 was drawn out to pay other McDougal land deals. We believe that \$25,000 was used as a downpayment on a second Whitewater Development Corp. land purchase south of Little Rock, and that over \$111,000 was transferred into another McDougal project called Flowerwood Farms. None of this money went to the working capital of Master Marketing.

All of this leads to questions about the SBA and their activities. Note very clearly that this is a question that goes to the functioning of the Small Business Administration. How can an SBA program designed for one purpose be allowed to go so far afield? Should the SBA tighten up its regulation and supervision of the small business investment companies? I believe Congress clearly has an interest in reviewing and potentially revising the way this program is administered.

Mr. President, it is important to realize that the \$300,000 loan made to Master Marketing was improper in just about every way.

One, the recipient was clearly not disadvantaged.

Two, the money was not used for its stated purpose.

Three, the money was used for real estate purchases, which violates the prohibition on the use of SBIC funds for real estate.

Four, it was never repaid.

Fifth, the Federal Government and the U.S. taxpayers ended up holding the tab.

This means, once again, that the taxpayers were paying the tab for activities in the Whitewater field. I believe the number of questions all this raises, once again, shows why hearings are so important and why the Mitchell second-degree amendment, with its narrow scope, designed to preclude our inquiry into these matters, is totally off the mark.

Mr. President, the people of the United States have the right to get some answers, and I do believe it is a sham and a fig leaf to keep blocking the inquiry, or even a vote on these questions, by offering the same second-degree amendment. These are issues that will be explored; these are issues that need to be brought out; and I cannot understand, in light of the very strong commitment of the majority leader, shown in investigating acts of wrongdoing or potential wrongdoing in previous Republican administrations, why they should be so objectionable and so feared that they need to be second degree out before this body can vote on them.

I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. How much time is left on each side?

The PRESIDING OFFICER. One minute 40 seconds on each side.

Mr. FORD. Does the Senator want to finish his 1 minute 40 seconds?

Mr. BOND. I will yield first to my colleague from Kentucky.

Mr. FORD. I thought so.

Mr. President, let me make two quick points, if I may. We have heard these arguments over and over again. They are getting so repetitious that we know them by heart now. So it does not take long to just keep on, keep on, keep on. What we are doing is seeing that this side is beginning to get pushed into a corner. Even the joint leadership in the House have agreed basically to what we are trying to do, which the special counsel has said is basically fair and meets his goal.

So now we find that everybody, basically, except this group—and maybe they will keep right on—has seen that this is the best route to go in fairness and in completion and in competent investigation.

Mr. President, we have had eight votes, I believe, and we are getting ready to have two more, and probably some more before the night is over, and we are delaying millions and millions of dollars that ought to be going to every State to build airports, to help their airways, to see that those people who paid a 10 percent tax on their airline ticket—their money that has gone into entitlements, any airport improvement, and many other things in

the bill. But we are delaying and preventing the construction season to get underway. We are preventing the people from taking advantage of the tax dollars and the time.

So, Mr. President, I hope they get off this bill, let me get it passed so I can go to conference and have it done before July 1.

Mr. BOND. Mr. President, with respect to the votes that we have had here, we have attempted to focus an investigation that we believe is in the best interest of the American people. We have seen millions of dollars lost. There have been substantial indications of lax practices by agencies, financial agencies in the Treasury, the RTC, perhaps even wrongdoing in the Department of Justice or failure to follow procedures.

Certainly, in the amendment before us right now we have practices by the SBA, the Small Business Administration, which are not defensible.

I simply ask our colleagues to allow us to ask questions in this Whitewater-related matter that would help us determine whether there are changes that need to be made in the SBA.

House Republicans were forced to accept a very limited scope amendment. Of course, they were. Everybody knows that the Rules Committee in the House does not allow the minority party to have votes or to conduct investigations.

In the past, this body has on a Democrat and Republican basis had the opportunity to debate issues on a much broader basis, raise questions and generally to get an up-or-down vote. We are being denied an up-or-down vote. But the people of America should know that a vote for the second-degree amendment is a vote not to investigate the SBA and Capital Management Services just as a vote for the second-degree amendment on the last issue was a vote not to look into the Department of Justice contacts with the White House.

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

Under the previous order, the junior Senator from Kentucky was to be recognized.

Mr. FORD. Mr. President, since obviously the junior Senator from Kentucky is not now present in the Chamber, 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. McCONNELL. 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. McCONNELL. Mr. President, has the Bond amendment been temporarily laid aside?

The PRESIDING OFFICER. It has. The bill is open to amendment.

AMENDMENT NO. 1794

(Purpose: To authorize hearings on any issues developed during, or arising out of, the Whitewater oversight hearings)

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

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 1794.

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

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

The amendment is as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about any issues developed during, or arising out of, the hearings conducted by the Committee on Banking, Housing, and Urban Affairs under this Act.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 1795 TO AMENDMENT NO. 1794

Mr. FORD. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. MITCHELL, proposes an amendment numbered 1795 to amendment No. 1794.

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

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

The amendment is as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

Mr. FORD. We have already voted on it nine times.

The PRESIDING OFFICER. The Senator from Kentucky has 17½ minutes.

Mr. McCONNELL. Mr. President, the underlying amendment that I sent to the desk continues our rather lengthy discussion about the appropriate way in which the Congress and particularly the Senate should exercise its oversight responsibility in what has been widely described as the Whitewater affair.

Mr. President, at this rate the big scandal voters will take into the voting

booth with them this November, I fear, is not Whitewater but whitewash. Operation Whitewash. The congressional coverup.

Understandably, members of the President's party, and the White House, would like to sweep it all under the rug, pretend Whitewater never existed, deride as politics any effort by Republicans to explore the matter in a congressional forum. That is, Mr. President, as if politics was somehow an alien presence in this place.

Not that politics had anything to do with the 25—I repeat—25 congressional investigations of administration matters during the Presidencies of Ronald Reagan and George Bush. Twenty-five times, Mr. President, 25 times during those 12 years frustrated Democrats hoped in vain that each was political manna. Oh no, it was said, those were instances where Congress needed to "do its job," protect the American people, it was said, air the issues, explore the charges, conduct oversight on behalf of the American people.

That is what was said by our friends on the other side of the aisle when it was a Republican in the White House, Mr. President. We are just trying to make the point here that what is good for the goose is good for the gander, and it is pretty hard to explain away those 25 congressional investigations in terms of what has been happening here when the occupant of the White House happens to be of a different party.

Mr. President, I do not think the whitewash will wash with the American people. Congressional Democrats can delay, dawdle, deny, dither, and detour ad infinitum—because they run this place. All of it—the House and the Senate. But do not think people will not sit up and take notice.

Democrats hold the keys to open the door to the truth. But at most, at least so far, they are willing only to put the keys in the door after they are darn sure the deadbolt and chain have been firmly put in place.

The voters, Mr. President, want us to kick the door in, all the way in, wide open. They want the whole truth. They want it all out on the table where everybody can take a look at it. They want to judge for themselves, Mr. President, whether it is all political, whether it is all media hype, as our friends on the other side contend. Americans are tired of the spin. It is not enough to hold rigged hearings, carefully crafted to avoid airing troublesome issues contained under the Whitewater umbrella.

Now, Mr. President, the underlying amendment which I have sent forward assures that when hearings are held—it is a very simple amendment—when hearings are held, whether according to the Democrat or Republican blueprint, if any new issues develop during the hearings or arise out of them, the oversight committee could pursue them.

Let me repeat, Mr. President. It is not complicated here.

In fact, I suspect it is the way every congressional hearing we have ever had around here has been conducted; that is, if any new issue arose, no matter which set of guidelines were adopted, a majority set of guidelines for the hearings or a Republican set of guidelines for the hearings, no matter which set of guidelines we were pursuing, if a new issue developed, the oversight committee would be free to pursue them.

I suggest, Mr. President, that no other approach to the matter makes any sense whatsoever. For any committee investigating any subject to conclude in advance that some new item brought to light by testimony before the committee had to be ignored is utter nonsense.

So what I am suggesting, Mr. President, in the underlying amendment is that the committee, no matter which set of guidelines the Senate ultimately adopted to pursue the oversight hearing, be free to go into any matter brought to light by the hearing.

That is why we have hearings—to learn. Frequently in public hearings, as a matter of fact, virtually all of the time in a public hearing around this place or any other legislative body, new things come to light. That is why we have hearings.

So I want to make it clear, Mr. President—and I would hope the Senate would share that view—that no matter what the parameters of the hearings in the beginning, that any new matter brought to light could be pursued. This would at least, Mr. President, partially loosen the straitjacket that the majority leader's proposal seeks to put the committee in. Bear in mind, the Democratic leader, the majority leader's proposal, puts the committee in a straitjacket, allows it to pursue only certain items.

I am sure it will be discussed here on the floor tonight that the House Republicans have essentially agreed with the majority over in the other body to the same stipulations that the majority leader is offering us here.

I would say that this is not the House. This is the Senate. And, of course, the minority in the House is in a very poor negotiating position. As we all know, the House of Representatives is largely like a triangle. At the top of the triangle is the Speaker and the chairman of the Rules Committee, and they can run the place because House rules simply do not allow the kind of latitude, either to individual House Members or to the minority party, that you have here in the Senate. So the poor House Republicans have to take the best deal they can get and are not in a position, under the rules of the House, to leverage anything better. So the House Republicans speak for themselves on this matter. We all understand the constraints within which they operate because of House rules.

Here in the Senate, it is different. There are some levers available to the minority, one of which we have been pursuing over the last week or so, to try to get an open, objective evaluation of what may or may not be a problem with regard to the Whitewater matter.

Now the independent counsel, Mr. Fiske, was given more latitude and authority than the congressional oversight committee is granted under the majority leader's proposal that we were discussing, and a similar one the House Republicans acceded to on their side because of their rules. The independent counsel was given a mandate to investigate allegations or evidence "developed during, connected with or arising out" of his primary investigation.

Mr. President, if the independent counsel is given this authority, the Senate certainly ought to be provided the same latitude. Our opportunities under the proposal by the majority leader are considerably more circumscribed than that of the independent counsel. It seems to me a most unfortunate restriction.

Let us not forget that public knowledge of the White House interference with the ongoing RTC investigation of Madison Guaranty arose out a routine oversight hearing earlier this year. That sort of illustrates the point I am trying to make here with my amendment, Mr. President; that you cannot entirely anticipate what is going to come up in a hearing. You have witnesses who come before it. Are they going to tell the truth? Senators are going to ask questions in a variety of areas. You cannot just decide in advance that you are going to ignore new information that may arise.

So the purpose of the underlying amendment that is at the desk is to give the committee the authority to pursue any new matter which might arise during the course of the hearing, regardless of what kind of blueprint for the hearing was adopted in the beginning.

It would be ludicrous, perfectly ludicrous, Mr. President, to confine a committee, any committee, in its investigation of Whitewater. That is why, as I said earlier, it could be rightly construed as whitewash. If you have such a narrow line of inquiry that it simply hogties the committee and allows it not to pursue legitimate areas of inquiry, one could only call that whitewash.

Mr. President, I am afraid that is what it would come down to if we pursued this matter with these kinds of rigid guidelines. The main issue is, are we going to pursue the truth, or are we going to maintain some kind of cover-up here by so restricting whatever committee is ultimately established in the inquiry?

At this juncture, Mr. President, I think it is important to remember that

Whitewater, if it is a problem, is the President's problem. If the Congress, and in particular if the Senate, continues to stonewall over full and fair hearings, then whitewash will be the problem of the Senate. Whitewater will be the President's problem; whitewash will be our problem.

It seems to me, Mr. President, regardless of party affiliation, the last thing the Senate would want to engage in is drawing itself into this Whitewater matter by engaging in activities that the public could rightly construe as whitewash. We do not make Whitewater any better by having whitewash here in the Senate.

In closing, I am reminded of the countless times we have heard from people on both sides of the aisle here, mainly on the other side. I remember, during the Reagan and Bush years I used to hear, "What are the Republicans afraid of?" "What are the Republicans afraid of?"

I think it is fair to ask folks on the other side, our good friends: What are the Democrats afraid of? What is the White House afraid of? If there is no problem here, Mr. President, why do we not go ahead and have the oversight hearings?

We did it 25 times. Twenty-five times during the Reagan-Bush years we had oversight hearings. I do not recall any of them being restricted. I do not remember every single one of them. I did not serve here all of that time, but I remember many of them. They ranged far and wide and made a legitimate attempt to get all the questions out there and to get as many answers as they could get.

So, Mr. President, I hope that we will allow the kind of inquiry that the American public demands. And, just because the administration may have a Whitewater problem—may not; we do not know yet—let us not create a whitewash problem for us here in the Senate.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, how much time does each side have left now? We vote at 9:10; is that correct?

The PRESIDING OFFICER. The Senator is correct, 9:10.

The senior Senator from Kentucky has 17 minutes and 20 seconds, and 3 minutes and 50 seconds remain for the other side.

Mr. FORD. Mr. President, I find myself in an awkward position, since all these lawyers get up and argue all the many proposals and ways of doing things. They are pretty good word merchants—pretty good word merchants. It is difficult for me, sometimes, to try to find a way to express myself that would be sufficient for the general public to understand what I am honestly trying to do and what I think is honestly trying to be accomplished here.

The amendment that we have before us, the underlying amendment, is perhaps the classic example of the process the Senate has been going through, that has been ongoing for the last several days. I would have to ask the lawyers. My dad always said a little knowledge of the law is dangerous. Get you a good lawyer and stay with him—or her. But as I read this amendment, you can do anything, anytime, anywhere that you want to. This is not limited to anything. It is wide open. It just says they authorize hearings on any and all issues.

They did not say limit it to Whitewater. It does not say limited to X, Y, or Z. But the amendment says "to any and all issues that might arise."

I do not know what issues are going to arise. They do not, either. But, boy, it sure does give them a broad door to go through. And I do not think that that is what we are trying to do.

So I hope what we are trying to do here is not make the mistakes of the past, but to be sure that what we do in our hearings just does not jeopardize any prosecution in the future—which we have experienced in the past. What you see in the amendment of the majority leader that I sent to the desk reflects that March 17 resolution. Full hearings will be conducted. I do not think there is any doubt about that, that full hearings will be conducted. But they will be done in phases. I think that is proper. The special counsel has said: This is what I would like for you to do in order for me to conduct a complete and thorough investigation. If I find wrongdoing, proceed to the courts.

I think that is straightforward. We will have full hearings and they will be conducted, but they need to be conducted in phases to be sure we do not jeopardize the special counsel's pursuit of information.

This amendment would authorize hearings on any and all issues that might—that might—arise, as the Senate conducts its hearings, with no limit, with no necessary reliance on anything that is before the Senate as a resolution, to get into whatever is there. Broad. Get in. Reach. The special counsel has asked us not to do that.

We have been going for some time and I guess we are getting ready to vote the 9th and 10th times on the identical language. As I said earlier, there has only been one vote different, and one Senator was necessarily absent from the Senate Chamber and that Senator did not vote, so that was one change. That Senator is now back and the votes, I believe, are identical. They have been that way for every vote.

I have worked since last November to put together an airport improvement reauthorization bill that has many things in it for many States. Every State in the Union will have entitlements. Every State in the Union will

be entitled to discretionary money. Since the junior Senator from New York has been the leader in this, I have tried to explain to him that last fiscal year, New York received \$81 million from this bill and next year it probably will be more; that he is now stopping the entitlements that are due that State under the law—\$25 million this year, \$25 million next year, and \$25 million the year after that. All States have that. That is in this bill.

I could go down the line. I think I have tried to accommodate in this bill every Senator on both sides of the aisle. In fact, we had one come tonight who wanted a colloquy, wanted to get it in. We read it, improved it, changed a word or two. I am ready to get it in. I guess I could do it now, but it would get all mixed up in this debate that has been going on, now, for days.

I would like to get the bill behind us. It seems to me we have been repeating and repeating and repeating and repeating the same thing. If you think the House is the House and the Senate is the Senate, and the House over there, they have it under control and forced the Republicans into doing something—I have never known the Republican leader in the House, BOB MICHEL, to be led into anything—let alone NEWT GINGRICH. If you forced NEWT GINGRICH to stand up in front of the press over there and agree with the Democrats when he does not want to, that is not the Congressman from Georgia I know.

So when they agreed to it, and come publicly with it, that tells me that this is on the right track. The majority leader's amendment, the majority leader's suggestion, is on the right track.

You can say this is the Senate and that is the House. But I still go back to the fact when the Congressman from Georgia, Congressman GINGRICH, stands up and says something, that he was forced to do it just does not wash with this Senator. And I do not believe it washes with those on the other side.

So it is getting down to a point where everybody, basically, is beginning to agree we are on the right track. We are agreeing with the special counsel. We vote and vote and vote, and delay and delay and delay. After 8 months of hard labor, it is tough to stand here and see this happen on a piece of legislation that helps all of the Senators, helps all the States.

Do you want to know something? The bill that they are delaying is a jobs bill. It is a jobs bill because every airport that is built, every runway that is expanded, everything that is done creates jobs for our people back home. But we have stopped it for days and days and days, and it appears they are going to continue to do that. Every day we miss on the construction season is a job lost back home. Keep on losing jobs for American people, but standing up here and filibustering by amendment.

You just say to the American people that we do not want you to have jobs; we do not want you to get your airport fixed.

After 8 months of hard work and putting it all together and getting basic agreement, you are getting ready to pass it with two or three amendments and then, bam, all of a sudden you get these amendments day after day after day. And that money put there by the taxpayers to help the airways and improve the economic conditions—the best economic development tool you have in a community is an airport, for those blue chippers to fly in there and not have to be driven for an hour or 2 to see your industrial site.

So, Mr. President, I hope sometime soon the shackles can be taken off of this piece of legislation by those who are trying to not vote on what they have asked for; not vote on what they have asked for all these weeks.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER [Mr. SIMON]. The junior Senator from Kentucky has 3 minutes and 50 seconds.

Mr. MCCONNELL. Mr. President, the resolution we passed, I believe it was by 98 to nothing, back on March 17 of this year, indicated that the procedure, in terms of matters allowed to be inquired into, would involve—and this is a direct quote from the resolution of March 17, 1994—"hearings on all matters." So the proposal of the majority leader at this juncture is a step back, as I understand it, from the March 17, 1994, 98-to-0 resolution which authorized hearings on all matters to limit that to three: Vince Foster's suicide, White House handling of Foster documents, and White House-RTC contacts regarding Madison Guaranty.

So what we have had here, Mr. President, is a further narrowing of an original 98-0 Senate vote which anticipated hearings on all matters—all matters.

Let me just say further, it seems to me it would be without precedent—maybe it has happened some time in the history of the Senate—it seems to me it would be without precedent for a hearing to be proceeding and for a Senator to ask a follow-up question and for the gavel to come down somewhere, "Oh, you can't answer that," and the chairman sits there and reads some prescribed parameters that seem to prevent a logical inquiry into a new fact that arose during the hearing. That is what the underlying amendment is about.

It is simply making the point that if everybody is sitting there listening to the witness and he brings up some new area, that regardless of what the original prescription for the hearing was, like on every other hearing conducted around here on every other subject since time began, the Senator would be free to ask and the witness would be free to answer any question on any new

area that might arise during the course of the hearing.

To do anything other than that, Mr. President, I would argue can only be called a whitewash. Why do we want to have a scandal here in the Senate? I do not even know if the administration has one. There has been a lot of talk about Whitewater. I personally have no preconceived notions about it at all. I assume the President is not going to put it on his resume when he runs in 1996. Beyond that, we do not know if this is a scandal or not. We cannot even ask any questions.

There were 25 investigations during the Reagan-Bush period into every conceivable newspaper allegations of impropriety, and here we have what appears to be at least a legitimate inquiry on the part of the Congress carrying out its oversight responsibility, and the majority wants to so restrict the inquiry that it can only be concluded by any reasonable person taking a look at the facts to be a whitewash.

Why in the world the Senate would want to taint itself by restricting its inquiry in such a manner is beyond me.

The PRESIDING OFFICER. Time of the Senator from Kentucky has expired.

Mr. MCCONNELL. So, Mr. President, I hope the second-degree amendment will not be approved and the underlying amendment will be. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The majority whip is recognized.

Mr. FORD. Mr. President, it is always uncomfortable to be on the other side of my colleague. It does not bother me a whole lot, but it makes me uncomfortable. And when he uses terms that really are not comfortable for the institution, talking about fraud, a scandal here when we are just debating an issue, is part of the innuendoes we have been hearing now for several days.

We talked about and he referred to the March 17 resolution that was voted 98-0. There is one paragraph that I think is pretty straightforward:

The hearings shall be structured and sequenced in such a manner that, in the judgment of the leaders, they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

That is all it is.

What this amendment does is it is opened up to everything. Somebody said, "Well, I went over and smoked at Lizard Lounge with John Jones and he told me so and so." Well, that leads into something else.

I just think this is too broad. But my colleague said that the resolution said that it shall look into all matters, include hearings on all matters. That was a good statement. He forgot to say, "related to."

That is what happens after you have been in politics for a while. They take your statements out of context, and he

just did not finish the sentence. All hearings, but he forgot to say "related to." That is in the resolution, that 98 of us voted for; 98 to zip—98 to zip.

So, Mr. President, sure, that is what it said, but you have to finish the sentence. You have to add those other two words to make it whole. What we had was a statement that was not quite completed: all items related to; including all matters relating to. And they set those out.

There is an honest difference here, regardless of what you say, whether the Democrats will not let Republicans do it, Republicans are trying to get the Democrats, or we are trying to do this or we are trying to do that.

One thing for sure, I have never heard a man more complimented than Robert B. Fiske, Jr. when he was appointed or selected than from the Republicans. And in 24 hours, they turned on him through this process on the Senate floor. That process we have seen today and yesterday and the day before of on and on and on.

So I think it will be seen for what it is, regardless of the sound bites that might come out of here. The sound bites are always good, but we get tired of them. They may come back to haunt you.

Congressman Udall made the statement—and I have to watch myself quite often; I get worked up about these things and I should not do it—but Congressman Udall said, "Dear Lord, make my words soft and sweet for some day I might have to eat them." Therefore, I have to be very careful.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. FORD. I do not know that I ought to. I think I will just keep the time and try not to get into anything more.

How much more time do I have, Mr. President?

The PRESIDING OFFICER. The Senator from Kentucky has 2 minutes and 52 seconds remaining.

Mr. FORD. Mr. President, let me just encourage my colleagues on the other side—I see the distinguished ranking member of the Commerce, Science, and Transportation Committee who has worked very hard on airport improvement in his State, particularly in the city of St. Louis. We included a whole bill in this particular piece of legislation, and I hope some others believe we worked very hard. We have the airport reform bill after that in case we made some mistakes, we can clean them up.

Mr. President, this is a jobs bill that is being held up—the construction of new airports, the construction of new runways, the roads that lead in, the sewers, the lighting. All these things are important to communities.

It is a jobs bill, and we are stopping a jobs bill and we are costing millions of dollars. Just look at the pages, at \$480 a page that is being printed, that

costs just to debate. I wonder how many dollars just in print for the legislative RECORD we have cost the taxpayers over eight consecutive votes. Now we are getting ready to have number 9 and number 10, and we have voted on the same thing for days.

So I implore my colleagues, let us get on with the business of the people here, and let us get this piece of legislation out. If we do not and it goes past July 1, everything ceases.

We do not have any entitlements for the States. They stop. We do not have any funding for airports. We do not have any funding for various and sundry items. We do not help the trucking business. We do not help the airline industry. We do not do these things; we are just delaying.

And so, Mr. President, I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays on amendment 1793.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1793, offered by the majority leader. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—56

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Riegle
Byrd	Kerry	Robb
Campbell	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dodd	Levin	Simon
Dorgan	Lieberman	Wellstone
Exon	Mathews	Wofford
Feingold	Metzenbaum	

NAYS—43

Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Faircloth	McCain	

NOT VOTING—1

Chafee

So the amendment (No. 1793) was agreed to.

The PRESIDING OFFICER. The question occurs on amendment No. 1792, as amended.

The amendment (No. 1792), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. MITCHELL. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on amendment No. 1795 offered by the majority leader.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE] is necessarily absent.

The result was announced—yeas 56, nays 43, as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—56

Akaka	Feinstein	Mikulski
Baucus	Ford	Mitchell
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boren	Harkin	Murray
Boxer	Heflin	Nunn
Bradley	Hollings	Pell
Breaux	Inouye	Pryor
Bryan	Johnston	Reid
Bumpers	Kennedy	Riegle
Byrd	Kerry	Robb
Campbell	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Sasser
DeConcini	Leahy	Shelby
Dodd	Levin	Simon
Dorgan	Lieberman	Wellstone
Exon	Mathews	Wofford
Feingold	Metzenbaum	

NAYS—43

Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Packwood
Coats	Hatch	Pressler
Cochran	Hatfield	Roth
Cohen	Helms	Simpson
Coverdell	Hutchison	Smith
Craig	Jeffords	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kempthorne	Thurmond
Dole	Lott	Wallop
Domenici	Lugar	Warner
Durenberger	Mack	
Faircloth	McCain	

NOT VOTING—1

Chafee

So the amendment (No. 1795) was agreed to.

The PRESIDING OFFICER. The question occurs now on the amendment No. 1794, as amended.

So the amendment (No. 1794), as amended, was agreed to.

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.

Mr. WELLSTONE. Mr. President, I rise today on behalf of myself and Senator DURENBERGER to respond to discussion that occurred late last week on the Senate floor concerning a proposed new airport at Minneapolis-St. Paul, MN.

Our colleagues from North Dakota, South Dakota, and Nebraska have recently expressed concerns that a new hub airport for the Minneapolis-St. Paul area could have adverse impacts on the air service and air travel costs to their States. These Senators wrote to the Administrator of the Federal Aviation Administrator [FAA] and to Minnesota's Metropolitan Airports Commission [MAC] to convey their concerns.

We would like to take this opportunity to assure all of our colleagues that neither MAC nor the State legislature has made the decision that a replacement hub airport is needed. The legislature established a dual-track planning process to investigate whether the existing hub airport should be expanded or whether construction of a replacement airport will be necessary. The legislature is not scheduled to make any decision on this matter until 1996 at the earliest.

Before any recommendation is made to the legislature, there will be exhaustive efforts, including public hearings by MAC and other State agencies to consider all views on both of these options. Again, this process is a technical evaluative one and neither choice is preordained. The FAA will be undertaking its own environmental impact statement to assure that any State decision fulfills the requirement of the Federal environmental laws.

MAC Chairman Richard Braun recently responded to the letter of our colleagues and indicated MAC's willingness to consider the views of all interested parties, within and outside Minnesota, on the potential impacts of any new replacement hub airport. Mr. President, I hope that in clarifying MAC's position in this matter, I can also reassure our colleagues that no new hub would be built without first considering the spokes.

Mr. KOHL. Mr. President, once again I would like to commend the leadership of my esteemed colleague from Kentucky, Senator FORD, chairman of the Senate Subcommittee on Aviation. As you know, Mr. President, the Airport Improvement Program [AIP] is a valuable source of much needed funds for airport construction and maintenance. And when it looked as if other political issues might stall passage of this bill and obligation of these much needed funds, Senator FORD moved swiftly to develop and pass a 60-day extension bill. The bill allowed approximately

half of the total fiscal year 1994 funds for the Airport Improvement Program to be obligated to states during the 60-days after the bill was signed. In Wisconsin, this extension was particularly important because our short summers only allow for a limited construction season. The longer AIP funds are delayed, the more narrow that window of opportunity becomes.

Let there be no mistake, however, Mr. President, that the 60-day extension only released half of the funding, and many airports are still waiting for vital funding. Yet here I stand, speaking on behalf of quick consideration of the bill, while many of my colleagues are engaged in debate on an entirely unrelated issue. Mr. President, I am not commenting on the importance of the Whitewater issue. Some Wisconsinites and Americans are concerned about this issue, and they are asking that the facts be made clear. If my colleagues want to debate this issue on the Senate floor, let them. But I ask that they not do it at the expense of airports and air passengers.

Therefore, I join the majority leader in asking that the Whitewater issue be resolved—one way or the other. If it must be considered now, then let us vote on any proposals; otherwise, let us consider this issue after work on the Airport Improvement Program legislation is completed. Either way, let us do what is right for airports and air passengers across the country—let us release the Airport Improvement Program funds and get on with the business of improving the lives of Americans.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, as if in executive session, I ask unanimous consent that it be in order at any time to proceed to the nomination of Lauri Fitz-Pegado, to be Assistant Secretary of Commerce and Director General of the U.S. and Foreign Commercial Service, Ex. Cal. 899, that the Senator from North Carolina [Mr. FAIRCLOTH] be recognized to offer a motion to recommit the nominee to the Committee on Banking, Housing and Urban Affairs, that there be 2 hours for debate on the motion to recommit, to be divided as follows; 1 hour controlled by the chairman of the Banking Committee and the chairman of the Commerce Committee, or their designees, and 1 hour under the

control of the Senator from North Carolina [Mr. FAIRCLOTH] or his designee, that following the conclusion or yielding back of time, the Senate vote on the motion to recommit without any intervening action; that if the motion is not adopted, the Senate then vote on the nomination, without any intervening action or debate; that if confirmed the motion to reconsider be laid upon the table and the President be notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

The Republican leader is recognized.

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object but I need to make one additional inquiry before I can withdraw the reservation.

Mr. MITCHELL. Mr. President, I withhold my request and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, I withdraw the reservation.

Mr. MITCHELL. I renew my request.

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

Mr. MITCHELL. Mr. President, I discussed with the distinguished Republican leader and the distinguished majority whip the best way to proceed with respect to the pending bill and the matter that we have been discussing today. I have concluded that it would be best to proceed as follows.

The agreement just obtained provides me with the authority to proceed to the nomination of Lauri Fitz-Pegado at any time and it is my intention to proceed to that nomination at 9:30 a.m. tomorrow. That nomination will be the subject of debate for 2 hours and then, at 11:30 a.m. tomorrow, the Senate will vote on a motion to recommit that nomination.

Following that vote, the Senate will return to consideration of the airport improvement bill for the purpose of considering amendments which are unrelated to the Whitewater matter. There are several such amendments which Senators have indicated they intend to offer and Senator FORD will manage the bill at that time in an effort to complete action on all amendments pending to the bill which are not related to Whitewater. The understanding which the distinguished Republican leader and I have reached is that as those amendments are considered there will not be any Whitewater-related amendments.

Senator DOLE has requested the opportunity to meet with his colleagues

for purposes of discussing how they deem it best to proceed, and of course as always I wish to accommodate him and during the day tomorrow there will be a Republican caucus for that purpose as we are considering the remaining amendments to the bill that are unrelated to Whitewater.

During that time, following their caucus, Senator DOLE will advise me of their intentions with respect to the Whitewater matter, and we will then proceed to complete action on the airport improvement bill either with or without further Whitewater-related amendments. That would depend upon the discussion that occurs tomorrow.

As I have stated previously, we will remain in session this week until we complete action on this bill, however long that takes, and on the legislative appropriations bill, however long that takes. It is my hope and expectation that it will not take a great deal of time to consider and complete action on the legislative appropriations bill. Of course, I hope the same is true with respect to this bill, although as I said, that will depend upon the caucus of our Republican colleagues tomorrow.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in any event, there will be no further roll-call votes this evening. The next vote will be at 11:30 a.m. tomorrow on the motion to recommit the Fitz-Pegado nomination, and then I expect there will be several votes during the day on the non-Whitewater-related amendments to the airport improvement bill.

I do want to state that we will remain in session this week until we complete action on this bill, however long that takes—Thursday, Friday, Saturday—whatever it takes, and on the legislative appropriations bill.

I hope and expect that it will not take those days and that we can complete action on it tomorrow. But we simply are going to have to complete action on it before we recess for the week.

Mr. President, I would like to invite the distinguished Republican leader to comment, first to correct me if I misstated any portion of our discussion, or to make any other comments that he wishes to make.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I say to the majority leader, I think he accurately reflects our discussion. I think there is one additional thing. If we should have some further negotiations on our side tomorrow after completion of the non-Whitewater amendments, it might be possible to take up legislative appropriations so we would not be losing any time. I think we discussed that also.

So I think the majority leader has indicated he will stay here tonight,

through Friday, whatever, until action is completed on the bill and that will be conveyed at our conference which we hope to convene—we have not yet cleared it with the conference chairman, Senator COCHRAN—we hope to convene the conference at 1 o'clock.

Mr. MITCHELL. Mr. President, I thank my colleagues. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair has an announcement.

Mr. MITCHELL. I withdraw my request.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, and after consultation with the Republican leader, pursuant to Public Law 102-375, as amended by Public Law 103-171, appoints the following Senators as members of the Policy Committee to the White House Conference on Aging:

The Senator from Arkansas [Mr. PRYOR], from the Special Committee on Aging;

The Senator from Maryland [Ms. MIKULSKI], from the Committee on Labor and Human Resources;

The Senator from New York [Mr. MOYNIHAN], from the Committee on Finance; and

The Senator from Maine [Mr. COHEN], from the Special Committee on Aging.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. MURKOWSKI. I ask unanimous consent that I be allowed to speak in morning business for no more than 4 minutes.

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

Mr. MURKOWSKI. I thank the Chair. (The remarks of Mr. MURKOWSKI pertaining to the introduction of S. 2191 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FORD. Mr. President, I inquire of the Chair, are we in morning business?

The PRESIDING OFFICER. We have before us the pending bill.

Mr. FORD. I ask unanimous consent there now be a period for morning business with Senators allowed to speak therein up to 3 minutes.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: calendars numbered 852, 853, and 965 to and including 974. I ask further unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation the motions to reconsider be laid upon the table en bloc; the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Charles H. Dolan, Jr., of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1994.

Charles H. Dolan, Jr., of Virginia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1997.

THE JUDICIARY

Robert M. Parker, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Diana Gribbon Motz, of Maryland, to be United States Circuit Judge for the Fourth Circuit.

Denise Page Hood, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Richard A. Paez, of California, to be United States District Judge for the Central District of California.

Paul L. Friedman, of the District of Columbia, to be United States District Judge for the District of Columbia.

Gladys Kessler, of the District of Columbia, to be United States District Judge for the District of Columbia.

Emmet G. Sullivan, of the District of Columbia, to be United States District Judge for the District of Columbia.

Ricardo M. Urbina, of the District of Columbia, to be United States District Judge for the District of Columbia.

William F. Downes, of Wyoming, to be United States District Judge for the District of Wyoming.

NAVY

The following-named captains in the line of the United States Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral (lower half)

Capt. Timothy Robert Beard, 294-38-3629, U.S. Navy

Capt. David Lawren Brewer, III, 578-64-8778, U.S. Navy
 Capt. Stanley Walter Bryant, 380-46-0482, U.S. Navy
 Capt. Toney Michael Bucchi, 420-60-9527, U.S. Navy
 Capt. Robert Stanley Cole, 165-32-2293, U.S. Navy
 Capt. William Winston Copeland, Jr., 253-70-7826, U.S. Navy
 Capt. John Wilbur Craine, Jr., 229-58-9037, U.S. Navy
 Capt. James Beaty Ferguson, III, 488-44-7664, U.S. Navy
 Capt. Edmund Peter Giambastiani, Jr., 110-38-8318, U.S. Navy
 Capt. John Joseph Grossenbacher, 326-42-5514, U.S. Navy
 Capt. James Bruce Hinkle, 217-44-6582, U.S. Navy
 Capt. Gordon Stallings Holder, 264-74-2235, U.S. Navy
 Capt. Richard George Kirkland, 552-72-0635, U.S. Navy
 Capt. Peter Avard Chipman Long, 541-50-9560, U.S. Navy
 Capt. Martin Jules Mayer, 138-36-0493, U.S. Navy
 Capt. Barbara Elizabeth McGann, 038-28-1961, U.S. Navy
 Capt. Patrick David Money maker, 569-72-5495, U.S. Navy
 Capt. Charles William Moore, Jr., 457-74-5696, U.S. Navy
 Capt. John Bernard Nathman, 551-70-6751, U.S. Navy
 Capt. William Lund Putnam, 560-62-6795, U.S. Navy
 Capt. Thomas Russell Richards, 103-38-7138, U.S. Navy
 Capt. David Putnam Sargent, Jr., 026-32-1082, U.S. Navy
 Capt. William Robert Schmidt, 409-74-6316, U.S. Navy
 Capt. Donald Alan Weiss, 501-50-7917, U.S. Navy

ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. John Anthony Gauss, 029-38-5672, U.S. Navy
 Capt. Thomas John Porter, 478-50-4481, U.S. Navy

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral (lower half)

Capt. Robert Wayne Smith, 452-72-6697, U.S. Navy

SPECIAL DUTY OFFICER (CRYPTOLOGY)

To be rear admiral (lower half)

Capt. Harry Winsor Whiton, 022-34-2916, U.S. Navy

SPECIAL DUTY OFFICER (INTELLIGENCE)

To be rear admiral (lower half)

Capt. Lowell Edwin Jacoby, 219-48-4376, U.S. Navy

SPECIAL DUTY OFFICER (OCEANOGRAPHY)

To be rear admiral (lower half)

Capt. Paul Golden Gaffney, II, 282-42-0479, U.S. Navy

STATEMENT ON THE NOMINATION OF WILLIAM F. DOWNES

Mr. SIMPSON. Mr. President, I would make a comment with regard to calendar item No. 973, the nomination of William F. Downes to be U.S. District Judge for the District of Wyoming.

This is a very excellent nomination by the President. I have known Bill

Downes for many years. He is a splendid man. He will do a very fine job. It is very pleasing to the bench and bar and citizens of Wyoming as he now will take up his residence in Casper, WY, where we have prepared the facilities, remodeled the district court, very beautifully done.

It was done several years ago to accommodate a judge in that area of Wyoming. Bill Downes will now be the Federal District Judge in the Federal courthouse in Casper, WY, and he will serve with great distinction and do as fine a job on the bench as he has done during his practice of law. He and his wife, Cathy, are splendid people.

I am very pleased to see this result for our citizens of Wyoming, for the attorneys, and others of the bar and the bench in Wyoming.

Thank you very much.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MESSAGES FROM THE HOUSE

At 5:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4301. An Act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

H.R. 4506. An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that pursuant to section 202(b)(3)(D) of Public Law 103-227, the Minority Leader appoints Mr. GOODLING of Pennsylvania to serve on the National Education Goals Panel on the part of the House.

MEASURES REFERRED

The following measure was read the first and second times by unanimous consent and referred as indicated:

H.R. 4506. An Act making appropriations for energy and water development for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4301. An Act to authorize appropriations for fiscal year 1995 for military activities of the Department of Defense, for mili-

tary construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

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-2805. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on programs to counter terrorism; to the Select Committee on Intelligence.

EC-2806. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Egg Products Inspection Act to recover the full costs for inspection of egg products performed at times other than an approved primary shift; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2807. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to recover costs of establishing standards for agricultural products; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2808. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to require meat and poultry slaughter and processing establishments to pay the full cost of Federal inspection for extra shifts; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2809. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "Packers and Stockyards Licensing Fee Act of 1994"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2810. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation entitled "Livestock Dealer Trust Act of 1994"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2811. A communication from the Comptroller General of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 93-01; to the Committee on Appropriations.

EC-2812. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report of a technical violation of the Antideficiency Act in the Administration for Children and Families' Children and Families Services Program appropriation; to the Committee on Appropriations.

EC-2813. A communication from the Comptroller General of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92-80; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H. Con. Res. 222. A concurrent resolution authorizing the placement of a bust of Raoul Wallenberg in the Capitol.

S. Res. 196. A resolution to authorize the printing of additional copies of a Senate report entitled "Developments in Aging: 1993".

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

S. Res. 224. An original resolution to amend the Standing Rules of the Senate for the use of the recording studio and mass mailings with respect to uncontested elections.

S. Res. 225. An original resolution relating to the purchase of calendars.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Bonnie O'Day, of Massachusetts, to be a Member of the National Council on Disability for a term expiring September 17, 1995.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

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. Charles R. Larson, 505-42-6639, U.S. Navy.

(The above nomination was reported with the recommendation that he be confirmed.)

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. STEVENS (for himself, Mr. MURKOWSKI, and Mr. GORTON):

S. 2191. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen who must pay in advance what the United States considers an illegal fee to navigate waters; to the Committee on Commerce, Science, and Transportation.

By Mr. BENNETT (for himself, Mr. SASSER, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. SPECTER, Mr. SIMON, Mrs. BOXER, Mr. KENNEDY, and Mr. BOND):

S. 2192. A bill to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. MURRAY (for herself and Mr. GORTON):

S. 2193. A bill to amend the Fishermen's Protective Act of 1967 to require the Secretary of State to reimburse owners of certain fishing vessels for certain fees paid by such owners to governments of foreign countries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. MIKULSKI (for herself, Mr. REID, Ms. MOSELEY-BRAUN, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. SARBANES):

S. 2194. A bill to require the Architect of the Capitol to establish and maintain a comprehensive personnel management system, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUE:

S. 2195. A bill to direct the Federal Communications Commission to require the reservation, for public uses, of capacity on telecommunications networks, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WELLSTONE (for himself and Mr. BURNS):

S. 2196. A bill to assure fairness and choice to patients and providers under managed care health benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. FEINSTEIN:

S. 2197. A bill to amend the Immigration and Nationality Act to control illegal immigration to the United States, reduce incentives for illegal immigration, reform asylum procedures, strengthen criminal penalties for the smuggling of aliens, and reform other procedures; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FORD:

S. Res. 224. An original resolution to amend the Standing Rules of the Senate for the use of the recording studio and mass mailings with respect to uncontested elections; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 225. An original resolution relating to the purchase of calendars; from the Committee on Rules and Administration; placed on the calendar.

By Mr. GORTON (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. PACKWOOD, and Mr. HATFIELD):

S. Res. 226. A resolution expressing the sense of the Senate relating to negotiations under the Pacific Salmon Treaty; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself, Mr. MURKOWSKI, and Mr. GORTON):

S. 2191. A bill to amend the Fishermen's Protective Act of 1967 to permit reimbursement of fishermen who must pay in advance what the United States considers an illegal fee to navigate waters; to the Committee on Commerce, Science, and Transportation.

THE FISHERMEN'S PROTECTIVE ACT AMENDMENT OF 1994

Mr. STEVENS. Mr. President, Canada has announced a \$1,500 license fee for United States fishermen to transit through the Inside Passage off the Pacific coast of Canada. This action is a clear violation of international law, in-

cluding the U.N. Conventions on the Law of the Sea. Senator MURKOWSKI, Senator GORTON, and I are introducing this bill to amend the Fishermen's Protective Act of 1967 to allow United States fishermen to be reimbursed if they pay this illegal Canadian fee in advance.

The Fishermen's Protective Act of 1967 provides for the reimbursement of fees paid by U.S. fishermen to secure the release of a vessel which has been seized. The act does not, however, allow fishermen to be reimbursed for fees paid in advance to avoid seizure. United States fishermen whose boats are seized for failure to pay this illegal fee will face significant expense and delay because the fee may only be paid in two ports on the Pacific coast of Canada, which means that they will have to travel from the point of seizure to those ports.

The bill we are introducing today—the Fishermen's Protective Act Amendment of 1994—would allow U.S. fishing vessel owners to be reimbursed for fees paid in advance to a foreign government to avoid seizure. The fees would be reimbursable if the United States considers the foreign government's fee to be inconsistent with international law. Because the State Department now agrees with my analysis that the Canadian fee violates international law, our fishermen would be reimbursed under this bill.

We need to act quickly to pass the amendment. Fishermen who cannot afford to pay the Canadian fee, and whose safety depends on access to the sheltered Inside Passage off British Columbia, need our immediate help. I hope that other Members will join in cosponsoring this bill to reimburse United States fishermen who are forced to pay this illegal Canadian fee.

Mr. MURKOWSKI. Mr. President, earlier today, I joined with Senator STEVENS and Senator GORTON in sponsoring a bill to amend the Fishermen's Protective Act of 1967. This bill would allow the Secretary of State to reimburse fishermen who are, as a consequence of Canadian action, now forced to pay a transit fee for moving fishing vessels through the inland passage of British Columbia, that portion of Canada on the West Coast that separates the Puget Sound area in the State of Washington and southeastern Alaska.

It is the opinion of the Senator from Alaska that this action is illegal and discriminatory.

Mr. President, as you may or may not know, Canada, as of yesterday, required an \$1,100 fishing vessel transit license for United States fishing vessels engaged in innocent passage through Canadian waters. The Canadian action was taken to try and force the United States to agree on a Canadian fisheries proposal that would be contrary to the best interests of our

Nation and, again, in the opinion of the Senator from Alaska, this is a flagrant discriminatory violation of international law and serves only to discourage rational debate on important conservation issues.

I have called for strong reaction by the United States Government, our State Department, including, if necessary, the use of the United States Coast Guard, to protect American fishing vessels transiting that area.

Let me note that I do not like the idea of our Government agreeing to this type of an outrageous charge which is, as I have said, a challenge to the free flow of navigation, traditionally in waters that have always enjoyed access by U.S. fishing vessels.

Such a fee is strictly illegal, as I have said, and I am confident that Canada is going to have to ultimately accept this fact and will be required under law to reimburse any person who is forced to pay it. However, the important thing right now is to avoid disruptions in our U.S. fisheries. I recognize as well that the United States Government is in a better position, perhaps, to recover these inappropriate charges from the Government of Canada than are the individual fishermen. Hence, the amendment of the Fishermen's Protective Act of 1967 which, as I indicated earlier, has been introduced earlier today by my colleague Senator STEVENS and Senator GORTON.

This amendment to the bill would allow for the Government of the United States to bear the responsibility if, indeed, a U.S. vessel is stopped from entering Canadian waters and seized or otherwise issued a violation.

So it would put our Government as the intermediary, if you will, Mr. President, between the actions of the Canadian Government and our individual fishermen rather than our Government, and I think it is appropriate that this action be taken on the basis which I have outlined because clearly it puts a government-to-government negotiation where it belongs to resolve this unfortunate action taken by the Government of Canada.

Now, the main goal of the Canadian strategy is to attempt to limit negotiations on the Pacific Salmon Treaty. It has announced it will begin taking a series of steps that will be, in the words of the Canadian Minister of Fisheries, to the advantage of Canada and United States disadvantage.

I would hope, Mr. President, that the Canadian Fisheries Minister will reconsider that statement if, indeed, that is his statement because clearly this matter can only be resolved by negotiations at an appropriate level and not by taking unilateral actions such as have been taken.

Further and finally, the transit license to which this bill responds, as I have indicated, is a violation of international law which protects the right

of innocent passage. It very well could endanger the lives of Americans who would, if barred from sheltered waters of inside passage, have to take their small boats into rough, unpredictable and dangerous open ocean around Vancouver Island.

So for that reason the bill has been amended. I would call on my colleagues for their support and again repeat my call on Canada to abandon its efforts to coerce an agreement from the United States. If Canada wants an agreement, it must return to the bargaining table and negotiate in a responsible manner government to government.

I thank the Chair. I yield the floor.

By Mr. BENNETT (for himself, Mr. SASSER, Mrs. FEINSTEIN, Mr. WOFFORD, Ms. MOSELEY-BRAUN, Mr. DOMENICI, Mr. FAIRCLOTH, Mr. SPECTER, Mr. SIMON, Mrs. BOXER, Mr. KENNEDY, and Mr. BOND):

S. 2192. A bill to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE UNLISTED TRADING PRIVILEGES ACT OF 1994

• Mr. BENNETT. Madam President, I introduce a small but important piece of legislation: the Unlisted Trading Privileges Act of 1994. This bill bears testimony to the fact that when the Government and the private sector work together, we can produce positive, helpful legislation. The Unlisted Trading Privileges Act strikes at the heart of two issues that I promised my constituents I would address when I came to represent them in Washington, DC—regulatory relief and capital formation.

I am pleased to take a moment to clarify the background and intent of this legislation which reforms a procedure that has been in place since 1934 and has stifled competition in the sales of initial public offerings. I would like to take a moment to pause and thank the parties that have been involved in creating what I believe to be a singularly well crafted piece of legislation. Through the long and dedicated work of the New York Stock Exchange, the Securities and Exchange Commission, and the Regional Stock Exchanges, the Philadelphia, Chicago, Boston, and Pacific, we were able to create a bill that is acceptable to all of them. In this regard I would like to give special thanks to SEC Chairman, Arthur Levitt whose staff reflects his strong commitment to honor his Commission's mandate to, in his own words, "see to it that competition works not just for the benefit of a particular institution, but protects the interests of the investor."

Through many months of hard work, and over 20 different drafts of this leg-

islation, the Securities and Exchange Commission worked in conjunction with a bipartisan congressional staff and the representatives of the New York Stock Exchange and the Regional Stock Exchanges to create a bill which will remove outdated regulatory barriers which currently prevent an open and more liquid market by giving the SEC the authority level the playing field in the sale of securities.

This bill will amend section 12(f)(1) of the Securities and Exchange Act of 1934 to revise the conditions under which exchanges extend unlisted trading privileges to most registered securities, a procedure which can often take many weeks under the current system, with absolutely no benefit gained by anyone associated with the transaction. The new section 12(f)(1) will enhance the opportunity for competition among exchanges by removing regulatory delays caused by exchange application, notice, and Commission approval requirements.

The maintenance of orderly markets is the central issue contained in this legislation. This bill charges the SEC with the creation of such regulations as are appropriate to allow the earliest possible national trading of a security, while maintaining fair and orderly markets and protecting investors and the public interest.

Since its inception it has been the SEC's mission to foster competition in the marketplace and eliminate all exchange rules and procedures that impose unnecessary burdens on the creation of competition. It is in the spirit that this bill allows every attempt to expose orders and order flow to the best existing market at the earliest possible time.

The current procedure inhibits some markets from effectively entering the competition. It causes decisions regarding the direction of order flow to be made without the benefit of the best suited market. And while, once made, the order flow decisions can be changed, the damage will have been done in the first few days of trading when the volume is historically at its peak.

In the end, it is the public/customer who is at risk in having orders exposed to trade in markets that are not as competitive as they could otherwise be. By allowing all markets to compete effectively, at the earliest possible time, the public/customer has more opportunity to receive the best price in his trades.

The current rules impair the ability of the regional specialists to compete in a timely fashion. They also cost nonmembers of the primary markets the added expense of executing their orders. All of this is contrary to the progress that has been made so far toward the development of a national market system.

My bill will accomplish three basic goals. First, it improves liquidity in

the markets by allowing greater access to floors on which each stock can be traded. Second, it creates five specialists in each stock issue instead of one. Finally, it increases competition in per-share pricing for brokers and therefore creates a more competitive environment in which brokers can pass savings on to their customers.●

By Mrs. MURRAY (for herself and Mr. GORTON):

S. 2193. A bill to amend the Fishermen's Protective Act of 1967 to require the Secretary of State to reimburse owners of certain fishing vessels for certain fees paid by such owners to governments of foreign countries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE FISHERMEN'S PROTECTIVE ACT

Mrs. MURRAY. Mr. President, we have a wild salmon crisis in the Pacific Northwest. Not only are we facing declining wild salmon stocks, and an emergency closure of salmon fishing off of the Pacific Coast due to El Niño, we also are facing a breakdown in negotiations with Canada over the Pacific Salmon Treaty.

As a result of this impasse in the negotiations, the Canadians announced last week that they would start collecting a fee from United States fishing boats sailing through the Inside Passage off the west coast of British Columbia. As of midnight last night, all commercial United States fishing boats sailing through Canadian waters will now have to pay about \$1,100 each way.

The State Department has said they believe the fee is illegal. However, while the legal issues are debated, United States commercial fishing boats will be required to stop and pay the fee before sailing through the Inside Passage. I am introducing a bill today to help provide relief to these commercial fishing boat owners.

Mr. President, many of the fishing boats traveling through the Inside Passage are from my home State of Washington. The fishers have families depending on their ability to catch fish for their livelihoods. It is not fair that they should be fined for trying to make a living. They did not break off the negotiations, and they should not have to pay.

The Bellingham Herald reported yesterday that one Washington State skipper sold 8,500 pounds of halibut in Canada, so he could head back to Alaska without paying \$1,100 to leave Canadian waters. He had intended to sell the fish to his long-time customers in the Bellingham area—something he has been doing for the past 10 years. He told the newspaper that he was afraid the situation was deteriorating and he did not want to get caught up in a struggle between the two countries. He was afraid he would lose a week of

sockeye fishing if he risked going back to Washington State, and then was unable to get back through Canada.

Mr. President, it certainly is not a good message to send to hardworking people in my home State, that the United States and Canada cannot agree on fish policy.

Our commercial fishers need to know that there is some immediate relief, and they need to know that the Clinton administration understands the importance of this issue to people in the Pacific Northwest and in my state. I plan to do two specific things in this regard:

First, I am introducing a bill that will provide relief to commercial fishermen. I am committed to working with my colleagues in both Houses of Congress to move this bill through the process as quickly as possible. The bill amends the Fishermen's Protective Act to allow the United States Government to reimburse fishing boat owners who pay fees to Canada under protest. In turn, the United States Government will recover the fees from Canada when the treaty negotiations resume. This seems to be the first short-term solution to a larger problem.

I do not believe we should punish fishermen—many of whom come from Seattle, Port Angeles, Bellingham, Everett, and other Washington State cities along the coast.

Second, I believe it is time to move this issue to a higher level. I have asked for a meeting with Vice President GORE on this issue, because I firmly believe this issue should be on the front burner in the Clinton administration. If we are to come to agreement with Canada on the Pacific Salmon Treaty, it may have to be done on the President to Prime Minister level.

Mr. President, we do not want a fish war or a boat war with Canada. What we really need is for all parties to come back to the negotiating table, so they can come to an agreement. Charging the fishermen who travel through the Inside Passage is not going to solve the larger problem.

I am aware that a similar bill was introduced today by several of my colleagues from the Pacific Northwest and Alaska. The only real difference in the bills is that my bill does not include findings which lay blame on Canada. This is not the time to point fingers at each other. The most important thing now is for the parties to return to the bargaining table and conclude an agreement. I will continue to work with my colleagues to achieve that goal.

I ask unanimous consent that my bill as introduced be printed in the RECORD.

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

S. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REIMBURSEMENT AND RECOVERY OF FEES.

(a) IN GENERAL.—The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

"SEC. 11. (a) Subject to subsection (c), the Secretary of State shall reimburse an owner of a commercial fishing vessel of the United States for the amount of any fee described in subsection (b) that is collected from the owner.

"(b) Subsection (a) applies to any fee collected from an owner of a vessel referred to in that subsection by the government of a foreign country in order to permit the vessel to navigate in waters of the country that connect with waters of the United States if—

"(1) the owner pays the fee under protest; and

"(2) the Secretary determines that the collection of the fee is contrary to applicable international law.

"(c)(1) An owner of a commercial fishing vessel seeking reimbursement for the amount of a fee under this section shall submit to the Secretary a request for reimbursement of the amount of the fee.

(2) The request shall include any information with respect to the payment of the fee that the Secretary determines appropriate, including—

"(A) a copy of the receipt indicating payment of the fee; and

"(B) an affidavit attesting that the owner paid the fee under protest.

"(3) The owner shall submit the request not later than 90 days after the payment of the fee.

"(d) The Secretary shall take any actions that the Secretary considers appropriate in order to recover from a foreign country the amount of any reimbursement made by the Secretary under this section with respect to a fee collected by that country.

"(e) For purposes of this section—

"(1) The term 'commercial fishing vessel of the United States' means any vessel of the United States engaged in commercial fishing activities or operations.

"(2) The term 'owner', in the case of a commercial fishing vessel, includes any charterer of the vessel."

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect on June 15, 1994.

(2) An owner of a commercial fishing vessel who pays a fee referred to in subsection (b) of section 11 of the Fishermen's Protective Act of 1967, as added by subsection (a), during the period beginning on June 15, 1994, and ending on the date of the enactment of this Act shall submit to the Secretary of State a request for reimbursement for the fee under such section 11 not later than 90 days after the date of the enactment of this Act.

By Ms. MIKULSKI (for herself, Mr. REID, Ms. MOSELEY-BRAUN, Mr. LIEBERMAN, Mr. GRASSLEY, and Mr. SARBANES):

S. 2194. A bill to require the Architect of the Capitol to establish and maintain a comprehensive personnel management system, and for other purposes; to the Committee on Governmental Affairs.

ARCHITECT OF THE CAPITOL HUMAN RESOURCES ACT

● Ms. MIKULSKI. Mr. President, I introduce the Architect of the Capitol Human Resources Act. Introducing this legislation with me today as cosponsors are Senators REID, MOSELEY-

BRAUN, LIEBERMAN, GRASSLEY, and SARBANES. This legislation is also being introduced today in the House of Representatives by Congresswoman NORTON along with her cosponsors Representatives MFUME and WYNN.

The Architect of the Capitol employs 2,300 employees who maintain our buildings and our grounds. For years these employees have complained to me and to others about the appalling conditions—truly a plantation mentality—under which they must work.

I want to relate a story, Mr. President. We will never forget the week in the spring of 1992 when riots swept Los Angeles following the verdict in the Rodney King beating trial. That week, a very agitated member of the Senate plumbing shop came to see me in my office. He told me that when he reported to work, he found a hangman's noose in the locker room. When he reported it to his supervisor, he was told that "some of the guys" were joking around. Several days later, another hangman's noose was found in the Senate paint shop.

Other employees have told me and my staff of working 23 years with no promotion or opportunity for promotion, of employees being sexually and racially harassed, and of a climate of fear.

I have heard from many employees who seek to be promoted based on merit and their job performance, but have not been able to do so because the Architect's office doesn't operate that way, they say. They say you get promoted only if you are friends with the supervisor or if you have accrued a lot of unused vacation and sick leave. What kind of standard is this for promotions?

Many are the employees who have shared their stories to me. And, I have heard some terrible stories.

Employees tell me that when they go to see their supervisor to tell him there's a problem, they're told: You're the problem. And because you're the problem, we're going to make sure you never create more problems. And by doing that, we're going to make sure no other employee ever creates a problem again. Because of reports like these, of a racially charged atmosphere, a hostile working environment and a work force in fear of reprisal, I asked the General Accounting Office to review the Architect's operations.

On Friday, April 29, the GAO issued its report on the Architect of the Capitol's personnel system. I have read that report, and, I've made it clear that I am appalled at GAO's findings.

I have appreciated GAO's continuing assistance with the drafting of this legislation. I'm pleased that this legislation will address each of the shortcomings identified in the GAO's report.

This legislation requires the Architect to establish and maintain a personnel management system that: en-

ures that hiring, promotions, and assignments will be based on merit and fitness and will include open competition for all employees; creates a formal performance job evaluation system based on objective criteria—something which these 2,300 employees do not have now; establishing an equal opportunity program that ensures an affirmative employment program for employees and applicants; creates a solid training program for Architect employees to increase opportunities for employee advancement; and gives all Architect employees the ability to appeal their complaints to the General Accounting Office Personnel Appeals Board. This provides the fair and independent grievance procedure now lacking in the Architect's operations.

Let me make it clear for the benefit of those who don't know, exactly who the Architect of the Capitol is, and what the office of the Architect of the Capitol does.

Mr. George White is the Architect. He has held this position for the last 23 years. As the Architect, Mr. White oversees a work force of approximately 2,300 people.

The Architect's responsibilities are to maintain the structural and mechanical aspects of the U.S. Capitol Buildings and Grounds, including: the U.S. Senate and House of Representatives, Library of Congress, and Supreme Court buildings, and the Capitol Power Plant; 825 of the 2,000 employees work at various Senate facilities and 90 percent of them are blue-collar workers. These employees perform very labor intensive work, including food service, general cleaning, upholstering, painting, carpentry, and repair work.

So, let's be clear. The Architect of the Capitol is not a man sitting in the Capitol Building, with a staff of two, drawing pictures. He runs a large and important organization. The Architect is responsible for the smooth operation of congressional buildings and maintenance of its grounds and the 2,300 employees that do the actual work.

Although the Architect's Office recently stated that it recognizes the deficiencies in its system and is attempting to make some modifications, this isn't something that last minute changes can fix. Every change implemented by the Architect has come within the last 2 years in response to pressure from me, from GAO and from other Members of Congress. And this Architect has been on the job since 1971.

Because I am a Senator from Maryland, many of the blue-collar workers at the Capitol have come to me, Congresswoman NORTON, and Congressman AL WYNN telling us their stories. Every day, I continue to hear from them. I have become the EEO office for the Architect of the Capitol.

Mr. President, that isn't my job.

It is clear to me that only through this legislation will the Congress—and

these employees who have struggled for so long to maintain their dignity—achieve the systemic change which must occur.

We introduce this bill today because these employees have suffered long enough. It is time we act to implement the same basic, fundamental management principles that any large organization should have in place. This legislation will—finally—bring the Architect of the Capitol into the 1990's. And I mean the 1990's, not the 1890's.

I ask unanimous consent that the text of the legislation appear in the RECORD.

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

S. 2194

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 "Architect of the Capitol Human Resources Act".

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that the Office of the Architect of the Capitol has not kept pace with human resource management practices common among other Federal and private sector organizations.

(b) PURPOSE.—It is the purpose of this Act to require the Architect of the Capitol to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.

SEC. 3. PERSONNEL MANAGEMENT SYSTEM.

(a) ESTABLISHMENT.—The Architect of the Capitol shall establish and maintain a personnel management system.

(b) REQUIREMENTS.—The personnel management system shall at a minimum include the following:

(1) A system which ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.

(2) An equal employment opportunity program which includes an affirmative employment program for employees and applicants for employment, and procedures for monitoring progress by the Architect of the Capitol in ensuring a workforce reflective of the diverse labor force.

(3) A system for the classification of positions which takes into account the difficulty, responsibility, and qualification requirements of the work performed, and which conforms to the principle of equal pay for substantially equal work.

(4) A program for the training of Architect of the Capitol employees which has among its goals improved employee performance and opportunities for employee advancement.

(5) A formal performance appraisal system which will permit the accurate evaluation of job performance on the basis of objective criteria for all Architect of the Capitol employees.

(6) A fair and equitable system to address unacceptable conduct and performance by Architect of the Capitol employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a formal grievance procedure.

(7) A program to provide services to deal with mental health, alcohol abuse, drug abuse, and other employee problems, and which ensures employee confidentiality.

(8) A formal policy statement regarding the use and accrual of sick and annual leave which shall be made known to all employees, and which is consistent with the other requirements of this section.

SEC. 4. IMPLEMENTATION OF PERSONNEL MANAGEMENT SYSTEM.

(a) DEVELOPMENT OF PLAN.—The Architect of the Capitol shall—

(1) develop a plan for the establishment and maintenance of a personnel management system designed to achieve the requirements of section 3;

(2) submit the plan to the Congress not later than 90 days after the date of enactment of this Act; and

(3) implement the plan not earlier than 30 days and not later than 90 days after the plan is submitted to the Congress, as specified in paragraph (2).

(b) EVALUATION AND REPORTING.—The Architect of the Capitol shall develop a system of oversight and evaluation to ensure that the personnel management system of the Architect of the Capitol achieves the requirements of section 3 and complies with all other relevant laws, rules and regulations. The Architect of the Capitol shall report to the Congress on an annual basis the results of its evaluation under this subsection.

(c) APPLICATION OF LAWS.—Nothing in this Act shall be construed to alter or supersede any other provision of law otherwise applicable to the Architect of the Capitol or its employees, unless expressly provided in this Act.

SEC. 5. DISCRIMINATION COMPLAINT PROCESSING.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "employee of the Architect of the Capitol" or "employee" means—

(A) any employee of the Architect of the Capitol;

(B) any applicant for a position that is to be occupied by an individual described in subparagraph (A); or

(C) any individual who was formerly an employee described in subparagraph (A) and whose claim of a violation arises out of the individual's employment with the Architect of the Capitol.

(2) The term "violation" means a practice that violates subsection (b) of this section.

(b) DISCRIMINATORY PRACTICES PROHIBITED.—

(1) IN GENERAL.—All personnel actions affecting employees of the Architect of the Capitol shall be made free from any discrimination based on—

(A) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(B) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(C) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112-14).

(2) INTIMIDATION PROHIBITED.—Any intimidation of, or reprisal against, any employee by the Architect of the Capitol, or by any employee of the Architect of the Capitol, because of the exercise of a right under this section constitutes an unlawful employment practice, which may be remedied in the same manner as are other violations described in paragraph (1).

(c) PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.—

(1) GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD.—(A) Any employee of the Architect of the Capitol alleging a violation of subsection (b) may file a charge with the General Accounting Office Personnel Appeals Board in accordance with the General Accounting Office Personnel Act of 1980 (31 U.S.C. 751-55) and regulations of the Board. Such a charge may be filed only after the employee has filed a complaint with the Architect of the Capitol in accordance with requirements prescribed by the Architect of the Capitol and has exhausted all remedies pursuant to such requirements.

(B) The Architect of the Capitol shall carry out any action within its authority that the Board orders under section 4 of the General Accounting Office Personnel Act of 1980 (31 U.S.C. 753).

(C) The Architect of the Capitol shall reimburse the General Accounting Office for costs incurred by the Board in considering charges filed under this section.

(2) GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD OR OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES.—An employee of the Architect of the Capitol who is assigned to the Senate Restaurants or to the Superintendent of the Senate Office Buildings alleging a violation of subsection (b) may file a charge pursuant to paragraph (1), or may elect to follow the procedures outlined in the Government Employee Rights Act of 1991 (2 U.S.C. 1201 et seq.).

(d) AMENDMENTS TO THE GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—

(1) Section 751(a)(1) of title 31, United States Code, amended by inserting "or Architect of the Capitol" after "Office".

(2) Section 753(a) of title 31, United States Code, is amended—

(A) in paragraph (7) by striking "and" at the end of the paragraph;

(B) in paragraph (8) by striking the period and inserting "; and"; and

(C) by inserting at the end thereof the following:

"(9) an action involving discrimination prohibited under section 4(b) of the Architect of the Capitol Human Resources Act."

(3) Section 755 of title 31, United States Code, is amended—

(A) in subsection (a) by striking the "or (7)" and inserting ", (7), or (9)"; and

(B) in subsection (b) by striking "or applicant for employment" and inserting "applicant for employment, or employee of the Architect of the Capitol".

By Mr. INOUE:

S. 2195. A bill to direct the Federal Communications Commission to require the reservation, for public uses, of capacity on telecommunications networks, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL PUBLIC TELECOMMUNICATIONS INFRASTRUCTURE ACT OF 1994

• Mr. INOUE. Mr. President, today, I am pleased to introduce the National Public Telecommunications Infrastructure Act of 1994.

Congress has a longstanding policy of facilitating access for the delivery of public telecommunications services. The legislation I am introducing today will bring Congress' public access policy under a consistent framework, and apply it uniformly to communications

technologies that will make up our Nation's telecommunications system.

The opportunities that will emerge from connecting all Americans to one system of interconnected communications media are extraordinary. This legislation provides a framework for accomplishing those goals.

The legislation, among other things, will ensure that all citizens of the United States have access to non-commercial, governmental, educational, informational, cultural, civic and charitable services through all appropriate telecommunications networks.

It will facilitate widespread public and civic discourse on a range of concerns between and among all Americans and ensure that the greatest possible diversity of voices can be heard on the national information infrastructure [NII].

The legislation will permit citizens to engage in interactive conversations with their elected officials; it will allow students and teachers to interact with their libraries and schools; it will provide small town and rural residents, as well as low-income citizens, minorities and individuals with disabilities to access important information about their communities and the political process; and provide avenues for the creation of new applications for public and educational broadcasting services, particularly at the local level.

Telecommunications networks have long benefited from their special access to public rights-of-way. The public benefits being conferred on builders and operators of the new information highway include new uses of public property and electromagnetic frequencies of various types and capacities, wires, fiber, and other forms of communication. There is no question that those who use these public rights-of-way can and should be required to confer appropriate benefits on the public in return.

The National Public Telecommunications Infrastructure Act of 1994 would require telecommunications networks that benefit from this special access to public rights-of-way to tender a benefit to the public—a public right-of-way on the information superhighway. More specifically, it would require those facilities to reserve up to 20 percent of their capacity—to eligible entities for the provision of free educational, informational, cultural, civic, or charitable services to the public.

Eligible entities would include State, local, and tribal governments, accredited educational institutions, public telecommunications entities, public and nonprofit libraries, and recognized nonprofit organizations specifically formed to provide public access to non-commercial educational, informational, cultural, civic, or charitable services.

The bill would apply to those telecommunications networks that receive

the benefit of public rights-of-way that provide the end user the opportunity to choose from a range of communications that are available contemporaneously and that are intended for the public. Such networks would include common carrier video platforms, cable television networks and direct broadcast satellite [DBS] systems. The bill, however, provides for a transition from the current public interest requirements that are embodied in the cable act's DBS set-aside, noncommercial must carry and public, educational, and governmental [PEG] use provisions to the new public right-of-way requirements.

It is my intent that the legislation not apply to the commercial must carry requirements that are currently set forth in section 614 of the Communications Act, the Internet, point to point telephone communications that are not intended for the general public and terrestrial broadcast stations and networks.

In order to ensure that capacity is reserved and that it is applied consistently throughout the Nation, the legislation would assert concurrent Federal jurisdiction over public rights-of-way used in providing telecommunications.

The bill directs the Federal Communications Commission [FCC] to adopt regulations and guidelines which would require owners and operators of telecommunications networks to reserve capacity on their networks in accordance with the certain provisions. The legislation reburies the FCC to presume that 20 percent of the network capacity is appropriate, but allows the FCC to establish a lower or scaled amount based on considerations such as the type of technology used by the network and barriers to access. It also permits the FCC to reduce the amount of public capacity that a telecommunications network would be required to reserve if it finds that the capacity is likely to go unused.

In addition, the owners and operators of the telecommunications networks would have no control over or liability for the content carried on the portion of the network reserved for public uses.

The bill requires the FCC, in allocating the reserved capacity to establish block allocations to State and local governments for redistribution among eligible entities. The legislation directs the FCC to establish a public telecommunications infrastructure fund to support the eligible entities' use of reserved capacity and to implement it at the State, local, or tribal level.

The bill provides for a sunset of the set-aside requirement when the FCC determines that a telecommunications network is fully open and that there are no economic and technological barriers to access. This provision makes it clear that the reservation of capacity is intended to be a transitional measure that becomes unnecessary once

telecommunications networks are truly open and accessible.

The principles incorporated in this bill are not new. They have deep roots in the history of America. Indeed, it is not uncommon for the Government to request something in exchange for allowing a private party the use of public property. For instance, when the Government was engaged in distributing public lands, it allocated portions for land grant colleges. When the Federal Government has granted right-of-way on public lands, it has on occasion required private users to make appropriate benefits available to the public as well. And when the Government allocated radio and television frequencies for commercial broadcasting, it set aside certain channels for public radio and television stations and imposed obligations to serve the public interest. Indeed, approximately 30 percent of television channels were reserved for public television—benchmark which makes a set-aside of up to 20 percent for a much broader range of users modest by comparison.

In the Public Telecommunications Act of 1992, Congress stated its intent that citizens be provided access to public telecommunications services through multiple telecommunications services. In adding section 396(a)(9) to the Communications Act, the Congress stated that:

It is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies.

The National Public Telecommunications Infrastructure Act of 1994 seeks to accomplish this goal.

Mr. President, nearly 100 educational, public broadcasting, library, civil rights, labor, local government, and disability rights organizations and others have expressed their support for the principles outlined in this legislation. This broad-based coalition believes that the reservation of public capacity on all appropriate telecommunications networks is essential to the full participation of all Americans on the NII.

It is important to note that many of the principles embodied in this bill will further the goals outlined in the Goals 2000: Educate America Act that President Clinton signed earlier this year; goals such as school readiness, mathematics and science achievement, teacher education and professional development, and adult literacy.

Vice President AL GORE endorsed the public right-of-way concept in a speech last year on telecommunications and the NII. Mr. GORE stated:

We cannot relax restrictions from legislative and judicial decisions without strong commitments and safeguards that there will be a "Public right-of-way" on the information highway. We must protect the interests of the public sector.

Mr. President, the Federal Government must continue to honor the concept and principles outlined in this bill as new technologies evolve and as we build our Nation's information infrastructure.

Existing telecommunications technologies have already permitted development of diverse community based programming that has increased civic discourse and expanded access to informational, educational and health related services. These start-up programs are flourishing, but their opportunities will be limited if increased access and funding is unavailable.

Let me cite a few examples and tell you how the public right-of-way bill could benefit our society. Thanks to Congress' investment, public television owns six fully digital ku band transponders on Telstar 401, the satellite launched in December by AT&T. This satellite, which incorporates the latest digital technology for video, voice, and data, in combination with V-Sat equipment, will be capable of delivering a broad range of interactive educational services to local public broadcast stations for delivery to homes, schools, and universities.

But public broadcasters face a serious problem in distributing these services over the last mile to homes and schools. Stations are generally restricted to a single broadcast channel to distribute their services. With access the land-based distribution networks that will make up the information superhighways, public stations would have the ability to distribute the wide range of educational services that will be available to Telstar 401 to people nationwide, when and how they need them.

For example, mathline, a video, data, and voice communication system devoted to improving the math achievement of American students, and ready-to-learn—an early education childhood development service, aimed at helping parents and childcare providers raise children who are ready to learn, will be available on Telstar 401 for distribution by local public broadcast stations. Access to telecommunications networks would facilitate the delivery of these and other services to our Nation's schools, day care centers, and homes.

PBS Online—A two-way interactive telecommunications network—is another service that will make use of the satellite. This interactive learning service will link students and teachers across the Nation and enable them to send and receive voice, data, and text messages.

Today, South Carolina educational television delivers live interactive seminars on early childhood education to Head Start teaching teams serving rural, migrant, native Americans and Alaskan village populations in 26 States. Access to telecommunications networks could expand the reach of this service throughout the country.

In Chicago, IL, the Chicago Chapter of the Black Nurses Association [CCBNA] uses live, interactive programming to send basic health care information to Chicago's homes with cable television. The series gives Chicagoans access to information about hypertension, nutrition, cancer, and drug testing in the workplace. This health care intervention tool has helped the CCBNA address many community health care problems and to obtain feedback and provide answers to many everyday questions.

The Satellite Educational Resources Consortium [SERC], a partnership of State public television networks and departments of education, distributes interactive distance learning courses to 5,000 high school students in 28 States. These courses bring math, science, and foreign language instruction to rural and disadvantaged schools. Access to new interactive telecommunications networks would facilitate the delivery of such distance learning courses nationwide.

Another example is WTVS in Detroit, MI. WTVS has developed an 18-channel community telecommunications network [CTN]. The system includes the working channel [TWC], which carries basic skills and job related information from such agencies as the Michigan Employment Security Commission and the Veterans' Administration, as well as a wide variety of graduate and undergraduate level courses aimed at improving employees in the workplace. WTVS now must rely on the voluntary carriage of the working channel by cable systems. The public right-of-way legislation would provide WTVS with a reliable distribution mechanism for these services to homes, schools, and workplaces throughout the State.

In Portland, OR, Portland's senior community video project produces *Agewise*, a series for local nonprofits, public and community service agencies. Currently, *Agewise* is a noninteractive series the efficacy of which would be significantly enhanced by the use of advanced technologies to permit senior citizens to ask questions and engage in important discussions about health care and other relevant issues.

Access must be reserved for these institutions so that they and their users will be able to take full advantage of the information infrastructure. But access alone will not bring the information superhighway to every public library and classroom. Funding for noncommercial use of the national information infrastructure is vital.

At a recent hearing on S. 1822, the Communications Act of 1994, before the Senate Commerce Committee, Secretary of Education Richard Riley expressed support for public access legislation and funding for noncommercial use of the NII. Secretary Riley stated:

The principle of "free" public education for all children is the bedrock of our democ-

racy. Not cheap, inexpensive, or available for a fee but in its essence "free".

The public right-of-way bill does just that. It authorizes the commission to promulgate regulations to establish a public telecommunications infrastructure fund [PTIF] which will provide eligible entities with additional economic support to assist in providing noncommercial services for the public. It also sets forth guidelines with respect to contributions, allocations, and distributions of the fund.

Funds from the PTIF could help support training for librarians, teachers, and school administrators so that library users and students—many of whom do not have computer access in their homes—will become active participants in the information age.

Mr. President, this legislation will not solve all of the public access problems on the NII, however, I believe it is a step in the right direction toward making sure that all Americans have meaningful access to the NII. I look forward to working with the Senate, the administration and the Federal Communications Commission on this important legislation.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 2195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Public Telecommunications Infrastructure Act of 1994".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States Government has consistently encouraged the development and dissemination of public telecommunications services in broadcast and nonbroadcast technologies through, among other things, the Public Broadcasting Act of 1967, the Public Telecommunications Financing Act of 1978, and the Public Telecommunications Act of 1992, wherein Congress found that "it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies . . ."

(2) The Government has a compelling interest in ensuring that all citizens of the United States have access to noncommercial governmental, educational, informational, cultural, civic, and charitable services through all appropriate telecommunications networks.

(3) New telecommunications technologies will enhance the ability of schools, libraries, local governments, public broadcast institutions, and nonprofit organizations to deliver and receive noncommercial governmental, educational, informational, cultural, civic, and charitable services throughout the United States.

(4) It is in the public interest that these entities be granted access to capacity on telecommunications networks for the pur-

pose of disseminating and receiving noncommercial governmental, educational, informational, cultural, civic, and charitable services throughout the United States.

(5) It is necessary and appropriate that these entities have access, without charge, to the capacity on telecommunications networks to enable the public to have affordable access to the governmental, educational, informational, cultural, civic, and charitable services provided by such entities.

(6) Telecommunications services, including cable television programming, basic telephone service, and telecommunications services not yet available, are likely to become an increasingly pervasive presence in the lives of all Americans.

(7) Most Americans are currently served by telecommunications networks that lack sufficiently open architecture, sufficient capacity, and adequate nondiscriminatory access terms necessary to provide open access to a diversity of voice, video, and data communications.

(8) Private telecommunications carriers are likely to control access to telecommunications networks that lack sufficiently open architecture, sufficient capacity, and adequate nondiscriminatory access terms. Without narrowly tailored governmental intervention, the existence of these private "gatekeepers" is likely to restrict access to these networks.

(9) Private telecommunications carriers respond to marketplace forces, and therefore are most likely to exclude those members of the public and institutions with the fewest financial resources, including but not limited to small town and rural residents, low income people, minorities, individuals with disabilities, the elderly, and noncommercial organizations such as schools, libraries, public broadcasters, and nonprofit community and civic organizations.

(10) To facilitate widespread public discourse on a range of public concerns between and among all Americans, the Government has a compelling interest in providing broad access to telecommunications networks for a diversity of voices, viewpoints, and cultural perspectives, including access for members of the public whose voices are most likely to be excluded by private telecommunications carriers.

(11) Assuring access to a diversity of voices, viewpoints, and cultural perspectives over telecommunications networks benefits all members of the public who use telecommunications networks to disseminate or receive information.

(12) Government support and encouragement of a diversity of voices, viewpoints, and cultural perspectives over telecommunications networks furthers a compelling governmental interest in improving democratic self-governance, and improving and facilitating local government services and communications between citizens and elected and unelected public officials.

(13) Telecommunications networks make substantial use of public rights-of-way in real property and in spectrum frequencies.

(14) Because of the Government's compelling interest in ensuring broad and diverse access to telecommunications networks for the purposes of disseminating and receiving noncommercial educational and informational services, and in exchange for the use of public rights-of-way accorded telecommunications networks, it is appropriate for Congress (through the assertion of concurrent Federal jurisdiction over rights-of-way held or controlled by State or local governments) to require that owners and operators of telecommunications networks reserve capacity on such networks for public use.

(15) The least restrictive means to ensure that those members of the public whose voices are most likely to be excluded from telecommunications networks can access those networks is to require those networks to reserve a portion of their capacity for that access.

(16) It is in the public interest that reserved network capacity for public use be accompanied by funding to facilitate use of such capacity to provide noncommercial governmental, educational, informational, cultural, civic, and charitable services for the public.

SEC. 3. PUBLIC RIGHTS-OF-WAY.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

"SEC. 714. PUBLIC RIGHTS-OF-WAY.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'telecommunications network' means any group of facilities that has been granted the right to occupy any public right-of-way to transmit or carry telecommunications for the public, and provides the consumer or end user the opportunity to choose from a range of telecommunications that are available contemporaneously to the public. A terrestrial radio or television broadcast station licensed pursuant to Title III shall not be considered a telecommunications network by reason of its use of its assigned spectrum.

"(2) The term 'public right-of-way' means any right-of-way, including use of the electromagnetic spectrum, that is held or otherwise controlled by Federal, State, or local governments on behalf of the public, and is used in the transmission or carriage of telecommunications.

"(3) The term 'telecommunications' means communications of any form transmitted or carried by any means, including analog or digital electromagnetic signals.

"(b) REQUIREMENT FOR RESERVED CAPACITY.—Within 365 days after the date of enactment of this section, the Commission shall promulgate regulations to require owners and operators of telecommunications networks to reserve, for public uses, capacity on such networks for use free-of-charge by eligible entities. The reserved capacity shall be considered public property subject to disposition pursuant to regulations promulgated by the Commission, and the owner or operator of any affected telecommunications network shall have no control over, and no liability for, the communications content of such capacity.

"(c) RESERVATION OF CAPACITY.—

"(1) AMOUNT OF CAPACITY TO BE RESERVED.—The Commission shall presume that a reservation under this section of 20 percent of the capacity of a telecommunications network is appropriate, but may require a reservation of a lower amount or an amount to be phased-in not exceeding 20 percent, upon consideration of the type of technology used by the network, barriers to accessing the network, and such other factors as the Commission considers appropriate. Telecommunications networks shall not be required to reserve public capacity in excess of that required under this paragraph.

"(2) TEMPORARY REDUCTIONS.—If the Commission determines that any portion of the amount of public capacity that a telecommunications network is required to reserve under this section will go unused, the Commission may temporarily reduce the reserved amount by such unused portion. During the period when the reserved public capacity of a telecommunications network is temporarily reduced, an eligible entity de-

scribed in subsection (d) may request use of any of the portion by which such reserved capacity was reduced and the Commission shall, within 30 days after the request, provide sufficient capacity to meet the request.

"(3) QUALITY.—The quality of telecommunications capacity reserved for public uses under this section shall be equivalent to the best quality of available capacity of the affected telecommunications network in all respects, including accessibility, channel positioning, interconnection access rights, network capabilities, and such other factors as the Commission considers appropriate.

"(4) REDUCTION OR ELIMINATION OF OBLIGATIONS.—The Commission may reduce or eliminate obligations upon a telecommunications network imposed under this subsection, if the Commission determines on the record after notice and opportunity for comment, that, throughout its entire service area, such network has clearly sufficient open architecture, capacity, and nondiscriminatory access terms to ensure that economic and technological barriers to access by eligible entities described in subsection (d) are eliminated.

"(5) EFFECT ON FRANCHISE FEE COLLECTION.—Nothing in this section is intended to affect the power of any franchising authority to collect a franchise fee authorized under section 622.

"(d) ALLOCATION OF CAPACITY.—

"(1) ELIGIBLE ENTITIES.—The following entities are the entities eligible for access to the public capacity reserved under this section:

"(A) State, local, and tribal governments and their agencies;

"(B) accredited educational institutions open to enrollment by the public;

"(C) public telecommunications entities;

"(D) public and nonprofit libraries; and

"(E) nonprofit organizations described under section 501(c)(3) of the Internal Revenue Code of 1986 that are formed for the purpose of providing nondiscriminatory public access to noncommercial educational, informational, cultural, civic, or charitable services.

"(2) TERMS AND CONDITIONS OF ACCESS.—Such eligible entities shall have access to such public capacity at no charge (for installation or service) if using such capacity only for the provision of educational, informational, cultural, civic, or charitable services directly to the public without charge for such services. Telecommunications capacity allocated pursuant to this section shall not be sold, resold, or otherwise transferred in consideration for money or any other thing of value.

"(3) ALLOCATION.—The Commission shall determine appropriate mechanisms and guidelines for allocating such public capacity. In so doing, the Commission shall establish block allocations to State, local, or tribal governments for redistribution among eligible entities pursuant to telecommunications plans submitted by State, local, or tribal governments, and ensure that the intent of Congress, as expressed in section 396(a), is served.

"(4) TRANSITION.—The Commission, as telecommunications network capacity expands, shall provide for a transition within a reasonable period of time from requirements under sections 335, 611, and 615 to requirements under this section.

"(e) PUBLIC TELECOMMUNICATIONS INFRASTRUCTURE FUND.—

"(1) ESTABLISHMENT.—Within 365 days after the date of enactment of this section, the Commission shall promulgate regulations to

establish a Public Telecommunications Infrastructure Fund to provide eligible entities described in subsection (d) with economic support to use the capacity reserved on telecommunications networks under this section to provide noncommercial governmental, educational, informational, cultural, civic, and charitable services for the public. Such regulations shall provide a mechanism for financing the Public Telecommunications Infrastructure Fund by means of—

"(A) contributions, on a competitively neutral basis, by owners and operators of telecommunications networks (including those regulated under titles II, III and VI, except that nothing in this subsection may be construed as affecting the power of any franchising authority to collect a franchise fee authorized under section 622);

"(B) contributions from a designated portion of any universal service fund, as may be established under this Act;

"(C) contributions from such other sources as the Commission may determine to be sufficient and appropriate for such purposes; or

"(D) any combination of the contributions described in subparagraphs (A), (B), and (C).

"(2) CONTENT OF REGULATIONS.—The regulations promulgated under this subsection shall—

"(A) provide that contributions to the Public Telecommunications Infrastructure Fund shall begin no later than 365 days after promulgation of the regulations;

"(B) determine appropriate mechanisms and guidelines for allocating the funds collected pursuant to this subsection to such State, local, or tribal governments as the Commission considers appropriate;

"(C) establish guidelines for the distribution of such funds by State, local, or tribal governments to provide eligible entities described in subsection (d) with sufficient economic support to use the network capacity reserved under this section to provide noncommercial governmental, educational, informational, cultural, civic, and charitable services for the public; and

"(D) require that each State, local, or tribal government authorized to distribute funds pursuant to subparagraph (c) establish a public advisory commission that—

"(i) shall be composed of members representing the interests of eligible entities described in subsection (d); and

"(ii) shall ensure that the funds are distributed to a broad cross section of eligible entities in accordance with the guidelines established pursuant to subparagraph (C)."

By Mr. WELLSTONE (for himself and Mr. BURNS):

S. 2196. A bill to assure fairness and choice to patients and providers under managed care health benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

THE PATIENT PROTECTION ACT

• Mr. WELLSTONE. Mr. President, I am pleased to introduce the Patient Protection Act today, with my colleague Senator BURNS as an original co-sponsor. As Congress considers health care reform, I believe we must focus very seriously on the importance of assuring the highest quality of care for patients. This act sets out landmark protections for patients and health care givers that should be incorporated in any health care reform proposal.

Any health care reform bill that is passed must have strong protections

for consumers from the dangers of monopoly medicine. There is tremendous consolidation of economic power by the insurance industry, even as we consider reforming our system. The largest managed care companies are integrating vertically and horizontally, and are dominating an ever larger piece of the health care market. This morning's news let us know that two of the largest companies, Metropolitan Life and Travelers, are planning to merge their operations, bringing the "big five" of the Alliance for Managed Competition down to the "big four."

I hear over and over again from the people around the country about what this means to their own health care. People, consumers and caregivers alike, are unhappy, frustrated, and frightened as a result of the merger of giant insurance plans that have left the health care market in the hands of an oligopoly.

What has come across very strongly, and has surprised me the most, is the growing voice of the doctors in sounding the alarm on the abuses of the emerging system. I have worked closely with the American Medical Association on developing this bill, as well as with consumer groups, and when it comes to protecting consumers and protecting the role of physicians and other health caregivers in making clinical decisions, the American Medical Association and I have much in common.

The AMA represents the physicians on the inside who are looking out, who have experience with managed care. And we're coming to the same conclusions. Some of what is happening is simply not in the best interests of maintaining choice and providing sensitive, high quality health care.

I have already proposed many of the elements of the Patient Protection Act as amendments to the Health Security Act that we reported out of the Senate Committee on Labor and Human Resources, and they are already part of the bill. These include the right for caregivers who are being dropped by a health plan to receive timely notice that includes the reasons for dismissal, and the right to appeal that decision. This provides time for patients to arrange for continuity of care, and gives everyone involved a chance to shed light on plans that drop caregivers who are providing necessary but expensive health care. This provision was approved in the Labor Committee markup of the Health Security Act by a vote of 12 to 4.

The Labor Committee bill also now includes the right for patients and providers to timely information about the standards that utilization management companies use to make decisions about medical care, and the right to appeal those decisions. It would also prohibit any financial arrangement that would cause a utilization management orga-

nization or physician incentive plan to deny medically necessary or appropriate care.

There are many good health plans that already live up to these standards, I am encouraged by the activities of the industry to assure that they are improving the care of their patients and improving the practice of medicine, as they strive for financial efficiency. I invite and expect the support of those plans for this bill.

Some who would agree on patients' rights draw the line at extending those rights to the people who provide health care. And here I say that demoralized caregivers are not good for patient care. If health plans can drop caregivers from their lists at will, with no explanation and no recourse, nothing stands in the way of some of the most predatory practices we see today. Doctors are dropped because they spend too much of the health plan's money, even if their patients are older or sicker or legitimately need more health care services. They are pitted against their patients every time they make a decision about whether or not to make a referral to a specialist. In areas where a few health plans dominate the market, every time a provider is dropped thousands of families lose the continuity of care they had with doctors they may have seen for years.

The drive for a healthy bottom line, instead of a healthy population, maintains our inequitable, multi-tier system. Doctors have told me that they have been instructed to give 20 minute appointments to patients who pay higher premiums, and only 10 minute appointments to those who pay less. They are being told to give cheaper, less accurate and less time-consuming tests for tuberculosis to patients on the lower price plans than they would give to patients paying a higher rate.

The Labor Committee recently heard tragic stories from patients and caregivers about the results of these untamed practices. We heard about two cases of women with breast cancer whose care was repeatedly delayed until any treatment was too late. The list could go on and on.

The standards proposed in this act will control the most egregious practices of today. But I think they go farther. This bill is a starting point for patients, providers, and others who are part of the health care industry to work together in the best interests of high quality patient care. Certainly, we must find a way to control health care costs. Certainly, there will be changes in the practice of medicine. It is up to those of us in Congress to provide leadership for accomplishing those goals in the interests of people, who depend on the health care system every day for vitally necessary care.

The time for health care reform is now, but it must be health care reform that includes high quality care as well

as effective cost control. Individual choice and patients' rights are among the cornerstones of the single payer bill I introduced in the Senate, the American Health Security Act of 1993 (S. 491).

The bill I am introducing today establishes the following important standards, particularly for managed care plans and for utilization management organizations:

First, there must be a process, established at the Federal level, for certifying managed care plans and utilization review programs. That process must include periodic review, a chance to remedy deficiencies, and the ability to discontinue the plans if they remain inadequate. The bill recognizes the constructive role that private accrediting bodies can play in consulting with the Government on these issues.

Second, consumers have a right to easily understood information about managed care plans so that they can make informed decisions, including not only the coverage and benefits, but also utilization review requirements and financial arrangements with utilization review organizations, loss ratios, and patient satisfaction statistics.

Third, plans must have sufficient access to physicians and other providers to provide timely care.

Fourth, plans cannot discriminate against patients who are likely to need expensive medical services due to their health condition by excluding their caregivers. There must be standards for hiring and firing physicians, and the right for timely notice and appeals when contracts for physicians already accepted by a plan are adversely modified.

Fifth, certified utilization review organizations must have up to date and medically justified for making decisions about whether or not clinical services should be provided, and patients and providers have a right to know what those standards are. The standards should be set and enforced by qualified health professionals, and there must be an appeal process when people are denied care.

Sixth, patients cannot be denied care unreasonably because of utilization review practices. Decisions about care must be made within 24 hours, and cannot be required for emergency care. If review personnel are unavailable, care provided will be considered to be approved and covered.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 2196

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 "Patient Protection Act of 1994".

TITLE I—PROTECTION OF CONSUMER CHOICE

SEC. 2. PROTECTION OF CONSUMER CHOICE.

Nothing in this Act shall be construed as prohibiting—

- (1) an individual from purchasing any health care services with the individual's own funds, whether such services are covered within any benefits package otherwise available to the individual; and
- (2) employers from providing coverage for benefits in addition to any benefits package otherwise available to an individual.

TITLE II—CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS

SEC. 3. DEFINITIONS.

For purposes of this title:

(1) **QUALIFIED MANAGED CARE PLAN.**—The term "qualified managed care plan" means a managed care plan that the Secretary certifies, upon application by the program, as meeting the requirements of section 4(b).

(2) **QUALIFIED UTILIZATION REVIEW PROGRAM.**—The term "qualified utilization review program" means a utilization review program that the Secretary certifies, upon application by the program, as meeting the requirements of section 4(c).

(3) **UTILIZATION REVIEW PROGRAM.**—The term "utilization review program" means a system of reviewing the medical necessity, appropriateness, or quality of health care services and supplies provided under a health insurance plan or a managed care plan using specified guidelines. Such a system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of medical procedures, and retrospective review.

(4) **MANAGED CARE PLAN.**—

(A) **IN GENERAL.**—The term "managed care plan" means a plan operated by a managed care entity (as defined in subparagraph (B)), that provides for the financing and delivery of health care services to persons enrolled in such plan through—

- (i) arrangements with selected providers to furnish health care services;
- (ii) explicit standards for the selection of participating providers;
- (iii) organizational arrangements for ongoing quality assurance, utilization review programs, and dispute resolution; and
- (iv) financial incentives for persons enrolled in the plan to use the participating providers and procedures provided for by the plan.

(B) **MANAGED CARE ENTITY.**—The term "managed care entity" includes a licensed insurance company, hospital or medical service plan, health maintenance organization, an employer or employee organization, or a managed care contractor (as defined in subparagraph (C)), that operates a managed care plan.

(C) **MANAGED CARE CONTRACTOR.**—The term "managed care contractor" means a person that—

- (i) establishes, operates, or maintains a network of participating providers;
- (ii) conducts or arranges for utilization review activities; and
- (iii) contracts with an insurance company, a hospital or medical service plan, an employer, an employee organization, or any other entity providing coverage for health care services to operate a managed care plan.

(6) **PARTICIPATING PROVIDER.**—The term "participating provider" means a physician, hospital, pharmacy, laboratory, or other ap-

propriately authorized provider of health care services or supplies, that has entered into an agreement with a managed care entity to provide such services or supplies to a patient enrolled in a managed care plan.

(7) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 4. CERTIFICATION OF MANAGED CARE PLANS AND UTILIZATION REVIEW PROGRAMS.

(a) **IN GENERAL.**—

(1) **CERTIFICATION.**—The Secretary shall establish a process for certification of managed care plans meeting the requirements of subsection (b) and utilization review programs meeting the requirements of subsection (c).

(2) **REVIEW AND RECERTIFICATION.**—The Secretary shall establish procedures for the periodic review and recertification of qualified managed care plans and qualified utilization review programs. Such procedures shall include steps by which a health plan may remedy any deficiencies cited.

(3) **TERMINATION OF CERTIFICATION.**—If the Secretary determines that a qualified managed care plan or qualified utilization review program no longer substantially meets the applicable requirements for certification, the Secretary shall establish procedures for terminating the certification of the plan or program for reasons including the failure of remedies for deficiencies referred to in paragraph (2). Prior to the date a termination becomes effective, the Secretary shall provide the plan notice and opportunity for a hearing on the proposed termination.

(4) **CERTIFICATION THROUGH ALTERNATIVE REQUIREMENTS.**—

(A) **CERTAIN ORGANIZATIONS RECOGNIZED.**—An eligible organization (as defined in section 1876(b) of the Social Security Act), shall be deemed to meet the requirements of subsection (b) for certification as a qualified managed care plan.

(B) **RECOGNITION OF ACCREDITATION.**—If the Secretary finds that a State licensure program or a national accreditation body establishes requirements for accreditation of a managed care plan or utilization review program that are at least equivalent to requirements established under this section, the Secretary may, to the extent appropriate, treat a managed care plan or a utilization review program accredited by such program or body as meeting the applicable requirements of this section.

(b) **REQUIREMENTS FOR CERTIFICATION OF MANAGED CARE PLANS.**—

(1) **IN GENERAL.**—The Secretary shall establish Federal standards for the certification of managed care plans, including standards which require managed care plans to meet the requirements described in paragraphs (2) through (6).

(2) **INFORMATION ON TERMS OF PLAN.**—Managed care plans shall provide prospective enrollees information on the terms and conditions of the plan so that the enrollees can make informed decisions about accepting a certain system of health care delivery. Easily understood, truthful, linguistically appropriate and objective terms must be used in all oral and written descriptions of a plan. Such descriptions shall be consistent with standards developed for supplemental insurance coverage under title XVIII of the Social Security Act. Descriptions of plans under this paragraph must be standardized so that customers can compare the attributes of the plans. Specific items that must be included in a description of a plan are—

(A) coverage provisions, benefits, and any exclusions by category of service, provider,

or physician, and if applicable, any exclusions by specific service;

(B) any and all prior authorization or other review requirements including preauthorization review, concurrent review, post-service review, post-payment review and any procedures that may lead the patient to be denied coverage for, or not be provided, a particular service;

(C) financial arrangements or contractual provisions with hospitals, utilization review organizations, physicians, or any other provider of health care services that would limit the services offered, restrict referral or treatment options, or negatively affect a physician's fiduciary responsibility to patients, including financial incentives not to provide medical or other services;

(D) an explanation of how plan limitations impact enrollees, including information on enrollee financial responsibility for payment for coinsurance or other noncovered or out-of-plan services;

(E) the plan's loss ratios and an explanation that they reflect the percentage of premiums expended for health services; and

(F) enrollee satisfaction statistics, including reenrollment statistics and a description of enrollees' reasons for leaving the plan.

(3) **ADEQUATE ACCESS TO PHYSICIANS.**—Managed care plans shall be required to demonstrate that they have adequate access to physicians and other providers so that all covered health care services will be provided in a timely manner. This requirement may not be waived and must be met in all areas where the plan has enrollees, including rural areas.

(4) **FINANCIAL RESERVES.**—Managed care plans shall be required to meet financial reserve requirements that are established to assure proper payment for health care services provided under the plan. The Secretary shall establish a mechanism to provide adequately for indemnification of plan failures even when a plan has met the reserve requirements.

(5) **PROVIDER INPUT.**—Managed care plans shall be required to establish a mechanism under which physicians and other providers participating in a plan have defined rights to provide input into the plan's medical policy (including coverage of new technology and procedures), utilization review criteria and procedures, quality and credentialing criteria, and medical management procedures.

(6) **CREDENTIALS FOR PHYSICIANS.**—

(A) **IN GENERAL.**—Managed care plans shall be required to credential physicians furnishing health care services under the plan. Any physicians within a plan's geographic service area may apply for credentials under the plan and at least once each year, the plan shall notify such physicians of the opportunity to apply for credentials.

(B) **CREDENTIALING PROCESS.**—

(i) **IN GENERAL.**—Each managed care plan shall establish a credentialing process. Such process shall begin upon application by a physician to be included under the plan. Each application by a physician shall be reviewed by a credentialing committee with appropriate representation of the applicant's medical specialty.

(ii) **STANDARDS.**—Credentialing under a plan shall be based on objective standards of quality with input from physicians credentialed by the plan. Credentialing standards shall be available to applicants and enrollees.

(iii) **ECONOMIC CONSIDERATIONS.**—If economic considerations, including practitioners' patterns of expenditure per patient, are part of a credentialing decision, objective

criteria must be used in examining such considerations and such criteria must be available to applicants, participating physicians, and enrollees. Any economic profiling of physicians must be adjusted to recognize case mix, severity of illness, age of patients and other features of a physician's practice that may account for higher or lower than expected costs. Economic profiles must be made available to the physicians profiled.

(iv) **GRADUATE MEDICAL EDUCATION.**—If graduate medical education is a consideration in credentialing, equal recognition will be given to training programs accredited by the Accrediting Council on Graduate Medical Education and by the American Osteopathic Association.

(v) **RECORDING DECISIONS.**—A record shall be maintained of all decisions made under the credentialing process and each applicant shall be provided with reasons for an application being denied or a contract not being renewed.

(vi) **DUE PROCESS.**—Prior to initiation of a proceeding leading to termination of a contract, the physician shall be provided notice, an opportunity for discussion, and an opportunity to enter into and complete a corrective action plan, except in cases where there is imminent harm to patient health or an action by a State medical board or other government agency that effectively impairs the physician's ability to practice medicine.

(vii) **REDUCING OR WITHDRAWING CREDENTIALS.**—The same standards and procedures used for an application for credentials shall also be used in those cases where the plan seeks to reduce or withdraw such credentials.

(viii) **APPEALS.**—There shall be allowed a due process appeal from all adverse decisions affecting practitioners with whom a plan has contracted. The due process appeal mechanisms shall be as set forth in the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11101–11152).

(C) **DISCRIMINATION AGAINST ENROLLEES.**—Managed care plans shall be prohibited from discriminating against enrollees based on health status or anticipated need for medical services likely to lead to high expenses by excluding practitioners with practices containing a substantial number of such patients.

(6) **CONFIDENTIALITY OF RECORDS.**—Managed care plans shall be required to establish procedures to ensure that all applicable Federal and State laws designed to protect the confidentiality of provider and individual medical records are followed.

(c) **REQUIREMENTS FOR CERTIFICATION OF UTILIZATION REVIEW PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary shall establish Federal standards for the certification of utilization review programs, including standards which require such programs to meet the requirements described in paragraph (2).

(2) **REQUIREMENTS.**—Plans must have a medical director responsible for all clinical decisions by the plan and provide assurances that the medical review or utilization practices used by the plans, and the medical review or utilization practices of payers or reviewers with whom the plans contract, comply with the following requirements:

(A) **Screening criteria** used in the review process, the methods by which they are applied, and their method of development, must be released to physicians and the public upon request.

(B) Such criteria and methods must be based on sound scientific principles and developed in cooperation with practicing phy-

sicians and other affected health care providers.

(C) Any person who recommends denial of coverage or payment, or determines that a service should not be provided, based on medical necessity standards, must be of the same medical branch (allopathic or osteopathic medicine) and specialty (specialties as recognized by the American Board of Medical Specialties or the American Osteopathic Association) as the practitioner who provided the service.

(D) Each claimant or provider (upon assignment of a claim) who has had a claim denied as not medically necessary must be provided an opportunity for a due process appeal to a medical consultant or peer review group that is independent of the entity that performed the initial review.

(E) Any individual making a final, negative judgment or recommendation about the necessity or appropriateness of services or the site of service must be a comparably qualified health care professional licensed to practice in the jurisdiction from which the claim arose.

(F) Upon request, physicians and other professionals will be provided the names and credentials of all individuals conducting medical necessity or appropriateness review, subject to reasonable safeguards and standards.

(G) Prior authorization shall not be required for emergency care, and patient or physician requests for prior authorization of a nonemergency service must be answered within 24 hours and qualified personnel must be available for same-day telephone responses to inquiries about medical necessity, including certification of continued length of stay. If review personnel are not available, medical services provided shall be considered approved.

(H) Plans must ensure that enrollees, in plans where prior authorization is a condition for coverage of a service, are offered the opportunity to sign medical information release consent forms upon enrollment for use where services requiring prior authorization are recommended or proposed by their physician.

(I) When prior approval for a service or other covered item is obtained, the service shall be considered to be covered unless there was fraud or incorrect information provided at the time such prior approval was obtained.

(J) Plans must establish procedures for ensuring that all applicable Federal and State laws designed to protect the confidentiality of provider and individual medical records are followed.

(d) **CONSIDERATIONS IN DEVELOPING STANDARDS.**—In developing standards under subsections (b) and (c), the Secretary shall—

(1) review standards in use by national private accreditation organizations and State licensure programs;

(2) recognize, to the extent appropriate, differences in the organizational structure and operation of managed care plans; and

(3) establish procedures for the timely consideration of applications for certification by managed care plans and utilization review programs.

(d) **TIMETABLE FOR ESTABLISHMENT OF STANDARDS.**—

(1) **IN GENERAL.**—Not later than 12 months after the date of the enactment of this Act standards shall first be established under this section.

(2) **REVISION OF STANDARDS.**—The Secretary shall periodically review the standards established under this section, and may revise

the standards from time to time to assure that such standards continue to reflect appropriate policies and practices for the cost-effective and medically appropriate use of services within managed care plans and utilization review programs.

TITLE III—CHOICE OF HEALTH PLANS FOR ENROLLMENT

SEC. 5. CHOICE OF HEALTH PLANS FOR ENROLLMENT.

(a) **IN GENERAL.**—Each sponsor, including a self-insured sponsor, of a health benefit plan, who offers, provides, or makes available such plan must provide to each eligible enrollee a choice of health plans among available plans.

(b) **OFFERING OF PLANS.**—Each sponsor referred to in subsection (a) shall include among its health plan offerings at least one of each of the following types of health benefit plans, where available:

(1) A managed care plan, including a health maintenance organization or preferred provider organization.

(2) A traditional insurance plan (as defined in subsection (c)(1)).

(3) A benefit payment schedule plan (as defined in subsection (c)(2)), pursuant to the following activities of the Secretary:

(A) Not later than 12 months after the date of the enactment of this Act, the Secretary shall—

(i) conduct a study on the projected impact of benefit payment schedule plans on enrollees and on the Nation's health care costs; and

(ii) submit a report to Congress on the results of such study.

(B) The Secretary shall promulgate regulations to—

(i) assure that benefit payment schedule plans, if approved, are affordable for all enrollees and contribute to health care cost containment; and

(ii) remedy any other significant deficiencies identified by the study described in subparagraph (A).

(c) **DEFINITIONS.**—For purposes of this section:

(1) **TRADITIONAL INSURANCE PLAN.**—The term "traditional insurance plan" includes plans that offer a health benefits package and that pay for medical services on a fee-for-service basis using a usual, customary, or reasonable payment methodology or a resource based relative value schedule, usually linked to an annual deductible and/or coinsurance payment on each allowed amount.

(2) **BENEFIT PAYMENT SCHEDULE PLAN.**—The term "benefit payment schedule plan" means a health plan that—

(A) provides coverage for all items and services included in a health benefits package that are furnished by any health care provider licensed under State law of the enrollee's choice;

(B) makes payment for the services of a provider on a fee-for-service basis without regard to whether or not there is a contractual arrangement between the plan and the provider;

(C) provides a benefit payment schedule that identifies covered services and the payment for each service covered by the plan; and

(D) applies no copayments or coinsurance.

SEC. 6. CHOICE REQUIREMENTS FOR POINT-OF-SERVICE PLANS.

(a) **IN GENERAL.**—Each sponsor, including a self-insured sponsor, of a health benefit plan that restricts access to providers, shall offer to all eligible enrollees the opportunity to obtain coverage for out-of-network items or services through a point-of-service plan (as

defined under subsection (e)(1), at the time of enrollment and at least for a continuous one-month period annually thereafter.

(b) COINSURANCE.—A point-of-service plan may require payment of coinsurance for an out-of-network item or service, as follows:

(1) The applicable coinsurance percentage shall not be greater than 20 percent of payment for items and services.

(2) The applicable coinsurance percentage may be applied differentially with respect to out-of-network items and services, subject to the requirements of paragraph (1).

(c) PAYMENT DISCLOSURE REQUIREMENT.—All sponsors of point-of-service plans and physicians and other professionals participating in such plans shall be required to disclose their fees, applicable payment schedules, coinsurance requirements, or any other financial requirements that affect patient payment levels.

(d) POVERTY EXCLUSION.—Any enrollee, including enrolled dependents, whose income does not exceed 200 percent of the established Federal poverty guideline for the applicable year, shall be charged no more than the amount allowed under applicable plan limits. Such amount shall be considered payment in full.

(e) DEFINITIONS.—For purposes of this section:

(1) POINT-OF-SERVICE PLAN.—The term "point-of-service plan" means a plan that offers services to enrollees through a provider network (as defined in paragraph (2)) and also offers additional services and/or access to care by network or non-network providers.

(2) PROVIDER NETWORK.—The term "provider network" means, with respect to a health plan that restricts access, those providers who have entered into a contract or agreement with the plan under which such providers are obligated to provide items and services under the plan to eligible individuals enrolled in the plan, or have an agreement to provide services on a fee-for-service basis.●

● Mr. BURNS. Mr. President, I join my colleague from Minnesota, Mr. WELLSTONE, in introducing the Patient Protection Act. It is not a comprehensive health reform proposal, nor is it an attempt at incremental change. It is language that should be included in whatever health care reform bill is considered before this body.

I am hearing many things from the folks at home, and my mail from people all across the country is no different. They all say, "I want to be able to choose my doctor and my health insurance." This legislation makes that possible.

By requiring health plans to list what services are covered in their plan, what services are excluded, and results of a survey on patient satisfaction, patients are able to be informed consumers. They can make wise decisions, based on what is most important to them.

By giving patients the option of three plans—an HMO/PPO-type plan; a traditional insurance plan; or a benefit payment schedule—patients are able to decide what works best for them and their family. If they don't care what physician they see or don't have any particular ties already, they may

choose an HMO. And if for some reason they are enrolled in an HMO-type plan, perhaps because that's the only one offered by their employer, but they want to see a physician not in that network, they will have the option of a point-of-service plan, an opportunity to pay extra to see a doctor who is not in their plan.

And yes, it does have some provisions that are seen as good for the doctors. But as I see it, patients are not in this alone. The patient-provider relationship is a special one. So, by giving physicians a voice in medical policy-making and developing criteria to ensure quality patient care, the patient wins.

This legislation guarantees that patients and their physicians are making the decisions about the patients' medical care. That's the way it should be. I certainly wouldn't want a clerk on the phone to tell my physician that I am not allowed to have some procedure done. If my physician and I agree, even if my insurance didn't cover it, I should have the information at my fingertips about that and should have options in case we decided to proceed.

That's what this country is all about. Options and opportunities and freedom. There is no reason patients shouldn't be given all the information they need to make wise decisions. And there is no reason patients shouldn't have the freedom to choose, freedom to choose their physician, the services they want, and the health insurance plan to which they want to subscribe. As long as this is a democracy, those should remain every individual's rights.

I look forward, Mr. President, to seeing this language become part of any health care reform bill that we consider here in the Senate. My colleague, Senator WELLSTONE, and I may disagree on many components of health care reform, but on this point we can stand together. Above all, the patient's rights and maintaining the quality of care must come first. To do so, we must enact this legislation to protect the patient and secure the patient-physician relationship.●

By Mrs. FEINSTEIN:

S. 2197. A bill to amend the Immigration and Nationality Act to control illegal immigration to the United States, reduce incentives for illegal immigration, reform asylum procedures, strengthen criminal penalties for the smuggling of aliens, and reform other procedures; to the Committee on the Judiciary.

ILLIGAL IMMIGRATION CONTROL AND ENFORCEMENT ACT OF 1994

● Mrs. FEINSTEIN. Mr. President, just over a year ago, I spoke about my fears that if the Federal Government did not act aggressively to stop illegal immigration, there could be a backlash against all immigrants.

In October 1993, I introduced the "Immigration Law Enforcement Act of

1993" to increase the number of border patrol agents, improve the asylum process and increase penalties for those who illegally smuggle immigrants into this country.

Now, a year later, I am even more concerned that the lack of action by Congress will only escalate ill will toward all immigrants. The time to act is now, and for that reason I am introducing legislation today which broadens my original draft based upon many conversations with my colleagues.

The impact on California's State budget caused by the steady stream of illegal immigrants is great. Estimates now range that there are between 1.6 million and 2.3 million illegal immigrants in California. The Governor of California believes the costs to our State of illegal immigrants has reached \$3 billion a year. Studies are underway by the General Accounting Office, the Office of Management and Budget, and the Justice Department, all of which should help to produce substantiated figures about the real cost to California.

No matter what the exact number turns out to be, the fundamental point is sure to remain the same. This is an expense that Californians can no longer afford to bear. Sheer numbers of illegal immigrants are having an impact: on classroom size, the jobs place, and in housing availability.

The inability to enforce our borders—and stop illegal immigration—is resulting in rising tension and increasing resentment against both legal and illegal immigrants.

And it is the responsibility of this Congress to act.

I rise today, therefore, to introduce the Illegal Immigration Control and Enforcement Act of 1994, a comprehensive combination of many of the best legislative proposals advanced to date.

The goal of this legislation is twofold:

First, stop illegal immigration by enforcing our borders and by devoting the resources to accomplish that objective;

Second, reduce the incentives—such as Federal benefits and assistance—available to illegal immigrants so fewer people attempt to come here illegally.

Among other things, this legislation will:

First, provide 2,100 new border agents—700 each year for the next 3 years—to secure our borders. It would also make available the necessary equipment, lighting and fencing.

When I visited a 14-mile stretch of the border in San Diego County a year ago, I saw a mere handful of agents in the field, only a single night-vision scope was available, the lighting was bad, and the border fence was incomplete.

When I returned to the same spot 10 days ago, after having helped secure a \$45 million appropriation to better police the Southwest border, things had

clearly improved. Lights were in place, 14 miles of the fence were nearly complete, new equipment was available and functioning, and 40 new U.S. agents were on duty.

More importantly, border patrol agents on the line in San Diego report that they are now catching 60 percent of those trying to enter the Nation illegally, up from 50 percent last year. The Saturday night I was there, 2,000 people were apprehended for illegally crossing the border, but still about 1,500 succeeded in crossing the border that night.

Based upon what I saw, border enforcement can work, but this is just the beginning. Adding 2,100 agents over 3 years would expand the efforts already underway and if they are assigned according to need, with some flexibility, the problem can be contained, and illegal border crossings greatly reduced.

Second, speed the legal crossing at all land borders by:

Fully staffing existing border gates, and

Authorizing the construction of new facilities needed to handle the crossing volume.

Third, a counterfeit-proof identity card aimed at eliminating the use of false documents to obtain benefits or work.

False documents allow illegal immigrants to gain employment unlawfully and to obtain federally funded public assistance benefits. In addition, the legislation increases penalties for those who make and sell false documents.

Fourth, establish a 2-year pilot "interior repatriation" program in San Diego to remove those who illegally cross the border to the "interior" of their home country.

One of the biggest problems is that illegal immigrants repeatedly try to cross the same border in a short period of time. During my visit to the border 10 days ago, the U.S. attorney said this provision was key and critical to reducing the frequency or repeat border crossings.

Fifth, prohibit direct cash assistance—such as Aid to Families With Dependent Children or Supplemental Security Income—to immigrants who are not legal permanent residents, refugees or asylees.

Sixth, require citizens who sponsor legal immigrants to provide complete financial support for them until they become U.S. citizens.

A legal immigrant is eligible for citizenship 5 years after arriving in this country.

This measure would prevent potential immigrants with sponsors from utilizing public assistance while under sponsorship.

Seventh, establish that an applicant for asylum is not automatically entitled to work authorization.

Additionally, it would take steps to expedite the asylum process and reduce the backlog of asylum claims.

Eighth, increase penalties for the smuggling of illegal immigrants:

It would increase the penalty for smuggling from 5 to 10 years, and imposes an additional penalty if the smuggler endangers the life of the immigrant.

A smuggler who causes an alien's death would be subject to the death penalty.

Ninth, provide for the prompt deportation of any non-green-cardholder who has been convicted of an aggravated felony and is deportable.

Tenth, reduce cases of abuse against illegal immigrants by providing improved training for both active border patrol agents and new hires and requiring the Attorney General to report to Congress each year on this effort.

This legislation also contains a funding mechanism to support the programs and hiring that it authorizes. It would impose a modest \$1 border crossing fee to pay for these improvements. Based on 1992 Customs figures, a \$1 crossing fee could raise between \$300 and \$400 million a year so this border enforcement program is self funding.

I would like to conclude by first acknowledging that this legislation owes a great deal to many in the House, Senate, and administration who have introduced many of these concepts in other forms.

In addition, I want to invite all of those parties, especially the Attorney General, Commissioner Meissner, and other Members of the Senate, to work with me to finalize this package and enact it into law as quickly as humanly possible.

The progress that I witnessed in San Diego earlier this month was impressive, but it is only a beginning. The United States must reduce incentives for illegal immigrants to come here, and the Federal Government must enforce our borders.

There is no time to lose. Mr. President, I ask unanimous consent that the full text of my bill appear in the RECORD.

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

S. 2197

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 "Illegal Immigration Control and Enforcement Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—ILLEGAL IMMIGRATION CONTROL AND ENFORCEMENT

PART A—EXPANDED BORDER PATROL, SUPPORT, TRAINING, AND RESOURCES

- Sec. 111. Border patrol expansion and deployment.

- Sec. 112. Hiring preference for bilingual border patrol agents.

- Sec. 113. Improved border patrol training.

- Sec. 114. Technology and equipment transfer to the Department of Justice.

PART B—EXPANDED BORDER INSPECTION PERSONNEL, SUPPORT, AND FACILITIES

- Sec. 121. Additional land border inspectors.
Sec. 122. Improvement of border crossing infrastructure.

PART C—DETENTION AND DEPORTATION

- Sec. 131. Enhancing penalties for failing to depart, or reentering, after final order of deportation.

- Sec. 132. Civil penalties for failure to depart.

- Sec. 133. Form of deportation hearings.

- Sec. 134. Interior repatriation and multiple reentry deterrence pilot program.

- Sec. 135. Judicial review.

- Sec. 136. Communications between federally funded government agencies and the Immigration and Naturalization Service.

PART D—ENHANCED CRIMINAL ALIEN DEPORTATION AND TRANSFER

- Sec. 141. Expansion in definition of "aggravated felony".

- Sec. 142. Deportation procedures for certain criminal aliens who are not permanent residents.

- Sec. 143. Judicial deportation.

- Sec. 144. Restricting defenses to deportation for certain criminal aliens.

- Sec. 145. Construction of expedited deportation requirements.

- Sec. 146. Negotiations for international agreements.

- Sec. 147. Denial of discretionary relief to aliens convicted of aggravated felonies.

- Sec. 148. Annual report.

- Sec. 149. Use of legalization information for criminal prosecution purposes.

TITLE II—ILLEGAL IMMIGRATION INCENTIVE REDUCTION

PART A—PUBLIC BENEFITS CONTROL

- Sec. 211. Ineligibility for certain direct Federal benefits.

- Sec. 212. Limits on benefits to sponsored immigrants.

- Sec. 213. Sponsorship enhancement.

- Sec. 214. Authority to States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.

PART B—EMPLOYER SANCTIONS SUPPORT

- Sec. 221. Additional Immigration and Naturalization Service investigations.

PART C—ENHANCED WAGE AND HOUR LAWS

- Sec. 231. Increased personnel levels for the labor department.

- Sec. 232. Increased number of assistant United States attorneys.

PART D—AUTHORIZATION VERIFICATION

- Sec. 241. Work authorization verification.

TITLE III—ENHANCED SMUGGLING CONTROL AND PENALTIES

- Sec. 301. Increased penalties for alien smuggling.

- Sec. 302. Death penalty procedures.

- Sec. 303. Smuggling aliens for commission of crimes.

- Sec. 304. Adding alien smuggling to RICO.

- Sec. 305. Expanded forfeiture for smuggling or harboring illegal aliens.

- Sec. 306. Wiretap authority for alien smuggling investigations.

- Sec. 307. Effective date.

TITLE IV—ADMISSIONS AND DOCUMENT FRAUD CONTROL

PART A—PORT OF ENTRY INSPECTIONS

- Sec. 411. Restrictions on admissions fraud.
 Sec. 412. Special port of entry exclusion for admissions fraud.
 Sec. 413. Judicial review.
 Sec. 414. Effective date.

PART B—ENHANCED PENALTIES

- Sec. 421. Increased penalties for document fraud.
 Sec. 422. Penalties for failure to disclose role as preparer of fraudulent documents.
 Sec. 423. Civil penalties for fraud, misrepresentation, and failure to present documents.
 Sec. 424. Effective date.

TITLE V—ASYLUM REFORM

- Sec. 501. Penalties for frivolous applications.
 Sec. 502. Asylum and work authorization.
 Sec. 503. Resources to address asylum backlog.
 Sec. 504. Reduction of incentive to delay proceedings.
 Sec. 505. Partial revocation of Executive order.

TITLE VI—BORDER CROSSING USER FEE

- Sec. 601. Imposition of fees.

TITLE I—ILLEGAL IMMIGRATION CONTROL AND ENFORCEMENT

PART A—EXPANDED BORDER PATROL, SUPPORT, TRAINING, AND RESOURCES

SEC. 111. BORDER PATROL EXPANSION AND DEPLOYMENT.

(a) **INCREASED PERSONNEL.**—The Attorney General, in each of the fiscal years 1995, 1996, and 1997 shall increase by no fewer than 700, and by an appropriate amount the number of personnel needed to support, the number of full-time, active-duty Border Patrol agents within the Immigration and Naturalization Service above the numbers of such agents hired in fiscal year 1994.

(b) **DEPLOYMENT OF PERSONNEL.**—The Attorney General shall, to the maximum extent practicable, ensure that the personnel hired pursuant to subsection (a) shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the level of illegal intrusion measured in each sector during the preceding fiscal year, and shall be actively engaged in (or in support of) law enforcement activities related to the illegal crossing of the United States' borders.

SEC. 112. HIRING PREFERENCE FOR BILINGUAL BORDER PATROL AGENTS.

The Attorney General shall, in hiring the Border Patrol Agents specified in section 111(a), give priority to the employment of multilingual candidates who are proficient in both English and such other language or languages as may be spoken in the region in which such Agents are likely to be deployed.

SEC. 113. IMPROVED BORDER PATROL TRAINING.

(a) **IMPROVEMENT.**—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

“(e)(1) The Attorney General shall ensure that all Border Patrol personnel, and any other personnel of the Service who are likely to have contact with undocumented or improperly documented persons, or other immigrants, in the course of their official duties, receive in-service training adequate to ensure that all such personnel respect the civil rights, personal safety, and human dignity of such persons at all times.

“(2) The Attorney General shall ensure that the annual report to Congress of the Service—

“(A) describes in detail actions taken by the Attorney General to meet the requirement set forth in paragraph (1);

“(B) incorporates specific findings by the Attorney General with respect to the nature and scope of any verified incident of conduct by Border Patrol personnel that—

“(i) was not consistent with paragraph (1); and

“(ii) was not described in a previous annual report; and

“(C) sets forth specific recommendations for preventing any similar incident in the future.”.

SEC. 114. TECHNOLOGY AND EQUIPMENT TRANSFER TO THE DEPARTMENT OF JUSTICE.

In order to facilitate or improve the detection, interdiction, and reduction by the Immigration and Naturalization Service of illegal immigration into the United States, the Attorney General is authorized to acquire and utilize any Federal equipment (including, but not limited to, fixed wing aircraft, helicopters, four-wheel drive vehicles, sedans, night vision goggles, night vision scopes, and sensor units) determined available for transfer to the Department of Justice by any other agency of the Federal Government upon request of the Attorney General.

PART B—EXPANDED BORDER INSPECTION PERSONNEL, SUPPORT, AND FACILITIES

SEC. 121. ADDITIONAL LAND BORDER INSPECTORS.

(a) **INCREASED PERSONNEL.**—In order to eliminate undue delay in the thorough inspection of persons and vehicles lawfully attempting to enter the United States, the Attorney General and Secretary of the Treasury shall increase, by approximately equal numbers in each of the fiscal years 1995 and 1996, the number of full-time land border inspectors assigned to active duty by the Immigration and Naturalization Service and the United States Customs Service to a level adequate to assure full staffing of all border crossing lanes now in use, under construction, or whose construction has been authorized by Congress.

(b) **DEPLOYMENT OF PERSONNEL.**—The Attorney General and the Secretary of the Treasury shall, to the maximum extent practicable, ensure that the personnel hired pursuant to subsection (a) shall be deployed among the various Immigration and Naturalization Service sectors in proportion to the number of land border crossings measured in each such sector during the preceding fiscal year.

SEC. 122. IMPROVEMENT OF BORDER CROSSING INFRASTRUCTURE.

(a) **IDENTIFICATION OF NECESSARY IMPROVEMENTS.**—Not later than March 1, 1995, the Attorney General shall, in consultation with the Secretary of the Treasury, identify those physical improvements to the infrastructure of the international land borders of the United States necessary to expedite the inspection of persons and vehicles attempting to lawfully enter the United States in accordance with existing policies and procedures of the Immigration and Naturalization Service, the United States Customs Service, and the Drug Enforcement Agency.

(b) **IMPLEMENTATION OF RECOMMENDATIONS.**—Not later than March 1, 1995, the Attorney General shall begin implementation of the projects (or securing any necessary approval) for the physical improvements referred to in subsection (a). Such improve-

ments to the infrastructure of the land border of the United States shall be substantially completed and fully funded in those portions of the country where the Attorney General, in consultation with the Committees on the Judiciary of the House of Representatives and the Senate, objectively determines the need to be greatest before the Attorney General may obligate funds for construction of any improvement otherwise located.

PART C—DETENTION AND DEPORTATION

SEC. 131. ENHANCING PENALTIES FOR FAILING TO DEPART, OR REENTERING, AFTER FINAL ORDER OF DEPORTATION.

(a) **FAILURE TO DEPART.**—Section 242(e) of the Immigration and Nationality Act (8 U.S.C. 1252(e)) is amended—

(1) by striking “by reason of being a member of any of the classes described in paragraph (2), (3), or (4) of section 241(a)” the first time it appears and inserting “by reason of being a member of any of the classes described in section 212(a) or 241(a)”;

(2) by striking “shall be imprisoned not more than ten years” and inserting “shall be imprisoned not more than 4 years, except that if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 241(a) then the alien shall be imprisoned not more than 10 years”.

(b) **REENTRY.**—Section 276(b) of the Immigration and Nationality Act (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (1)—

(A) by inserting after “commission of” the following: “three or more misdemeanors involving drugs, crimes against the person, or both, or”; and

(B) striking “5” and inserting “10”; and

(2) in paragraph (2), by striking “15” and inserting “20”, and

(3) by adding at the end the following sentence:

“For the purposes of this subsection, the term ‘deportation’ includes any agreement in which an alien stipulates to deportation during a criminal trial under either Federal or State law.”.

(c) **COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.**—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

“(c) In any criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

“(1) the alien has exhausted any administrative remedies that may have been available to seek relief against such order;

“(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

“(3) the entry of the order was fundamentally unfair.”.

(d) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to offenses occurring after the date of enactment of this Act.

SEC. 132. CIVIL PENALTIES FOR FAILURE TO DEPART.

(a) **IN GENERAL.**—Section 274C of the Immigration and Nationality Act (8 U.S.C. 1324c) is amended—

(1) by amending the section heading to read as follows:

“PENALTIES FOR DOCUMENT FRAUD, FAILURE TO DEPART, AND FAILURE TO PRESENT DOCUMENTS”;

(2) in subsection (a)—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; or"; and

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

"(5) if such person is an alien—

"(A) to fail or refuse to depart from the United States by the date that final, unappealable orders of exclusion and deportation or deportation become effective against such person; or

"(B) to fail or refuse to voluntarily depart the United States by the date granted by the Attorney General in lieu of a final, unappealable order of deportation.";

(3) in subsection (c), by inserting before the period the following: "or in section 237 or section 242 of this Act";

(4) in subsection (d)(3)—

(A) by striking "or" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ", or"; and

(C) by adding at the end the following new subparagraph:

"(C) up to \$500 for each day that an alien is in violation of subsection (a)(5)"; and

(5) by inserting at the end the following new subsection:

"(e) DEFINITION.—For the purposes of this section, the term 'final, unappealable order of deportation' means any order of exclusion and deportation or deportation issued by the Attorney General that has not been administratively or judicially appealed within the deadlines established by this Act or regulations thereunder, or any such order the judicial appeal of which has been denied, and which denial has become final."

(b) AMENDMENT TO THE TABLE OF CONTENTS.—The table of contents for the Immigration and Nationality Act is amended by amending the item relating to section 274C to read as follows:

"Sec. 274C. Civil penalties for failure to depart."

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to violations occurring after the date of enactment of this Act.

SEC. 133. FORM OF DEPORTATION HEARINGS.

The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: ", except that nothing in this sentence precludes the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien".

SEC. 134. INTERIOR REPATRIATION AND MULTIPLE REENTRY DETERRENCE PILOT PROGRAM.

(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this Act, the Attorney General, after consultation with the Secretary of State, shall establish a pilot program in the San Diego sector of the Immigration and Naturalization Service for up to 2 years to test the effectiveness of interior repatriation in deterring multiple unauthorized entries by aliens into the United States.

(b) REPORT.—Not later than 24 months after the date of enactment of this Act, the Attorney General, together with the Secretary of State, shall include a section in the annual report required by section 148 of this Act on the operation of the pilot program established by this section. Such report shall include a recommendation as to whether the pilot program or any part thereof should be extended or made permanent.

SEC. 135. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 106(a) of such Act (8 U.S.C. 1105a(a)) is amended by amending paragraph (1) to read as follows:

"(1)(A) a petition for review may be filed not later than 45 days after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony, not later than 15 days after the issuance of such order;

"(B) the alien shall serve and file a brief not later than 40 days after the date on which the administrative record is available, and may serve and file a reply brief not later than 14 days after service of the brief of the Attorney General, except that the court may extend these deadlines upon motion for good cause shown; and

"(C) if an alien fails to file a brief within the time provided in this paragraph, the Attorney General may move to dismiss the appeal, and the court shall grant such motion unless a manifest injustice would result.";

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to appeals taken after the date of enactment of this Act.

SEC. 136. COMMUNICATIONS BETWEEN FEDERALLY FUNDED GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Notwithstanding any other provision of law, no Federal, State, or local government entity receiving Federal funds shall be prohibited or in any way restricted from confidentially communicating with the Immigration and Naturalization Service regarding the immigration status, legal or illegal, of an alien in the United States.

PART D—ENHANCED CRIMINAL ALIEN DEPORTATION AND TRANSFER

SEC. 141. EXPANSION IN DEFINITION OF "AGGRAVATED FELONY".

(a) EXPANSION IN DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c) of title 18, United States Code;

"(C) any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code, or in explosive materials as defined in section 841(c) of title 18, United States Code;

"(D) any offense described in (i) section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or (ii) section 1957 of such title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the value of the monetary instruments or property exceeds \$100,000;

"(E) any offense described in—

"(i) subsections (h) or (i) of section 842, title 18, United States Code, or subsection (d), (e), (f), (g), (h), or (i) of section 844 of title 18, United States Code (relating to explosive materials offenses);

"(ii) paragraph (1), (2), (3), (4), or (5) of section 922(g), or section 922(j), section 922(n), section 922(o), section 922(p), section 922(r), section 924(b), or section 924(h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) which is

punishable by imprisonment for 5 years or more;

"(G) any theft offense (including receipt of stolen property) or any burglary offense, in which the value of the property in question exceeds \$10,000 and which is punishable by imprisonment for 5 years or more;

"(H) any offense described in section 875, section 876, section 877, or section 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) any offense described in section 2251, section 2251A or section 2252 of title 18, United States Code (relating to child pornography);

"(J) any offense described in—

"(i) section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations); or

"(ii) section 1084 (if it is a second or subsequent offense) or section 1955 of such title (relating to gambling offenses), which is punishable by imprisonment for 5 years or more;

"(K) any offense relating to commercial bribery, counterfeiting, forgery or trafficking in vehicles whose identification numbers have been altered, which is punishable by imprisonment for 5 years or more;

"(L) any offense that—

"(i) relates to the owning, controlling, managing or supervising of a prostitution business;

"(ii) is described in section 2421, section 2422, or section 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or

"(iii) is described in sections 1581, 1582, 1583, 1584, 1585, or section 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) any offense relating to perjury or subornation of perjury which is punishable by imprisonment for 5 years or more;

"(N) any offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), section 798 (relating to disclosure of classified information), section 2153 (relating to sabotage) or section 2381 or section 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(O) any offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeded \$200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion), in which the revenue loss to the Government exceeds \$200,000;

"(P) any offense described in section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) any offense described in section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage;

"(R) any offense relating to failing to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony, which is punishable by imprisonment for 2 years or more; or

"(S) any attempt or conspiracy to commit an offense described in this paragraph.

The term 'aggravated felony' applies to offenses described in this paragraph whether in violation of Federal or State law and applies to such offenses in violation of the laws of a

construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States, its agencies or officers, or against any other person.

SEC. 146. NEGOTIATIONS FOR INTERNATIONAL AGREEMENTS.

(a) NEGOTIATIONS WITH OTHER COUNTRIES.—The Secretary of State, together with the Attorney General, may enter into an agreement with any foreign country providing for the incarceration in that country of any individual who—

- (1) is a national of that country; and
- (2) is an alien who—

(A) is not in lawful immigration status in the United States, or

(B) on the basis of conviction of a criminal offense under Federal or State law, or on any other basis, is subject to deportation under the Immigration and Nationality Act, for the duration of the prison term to which the individual was sentenced for the offense referred to in subparagraph (B). Any such agreement may provide for the release of such individual pursuant to parole procedures of that country.

(b) PRIORITY.—In carrying out subsection (a), the Secretary of State should give priority to concluding an agreement with any country for which the President determines that the number of individuals described in subsection (a) who are nationals of that country in the United States represents a significant percentage of all such individuals in the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 147. DENIAL OF DISCRETIONARY RELIEF TO ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) INELIGIBILITY FOR SUSPENSION OF DEPORTATION.—Section 244 of the Immigration and Nationality Act (8 U.S.C. 1254) is amended by adding at the end the following new subsection:

“(g) Suspension of deportation and adjustment of status under subsection (a)(2) shall not be available to any alien who has been convicted of an aggravated felony.”

(b) APPLICATION OF EXCLUSION FOR DRUG OFFENSES.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C. 1182(h)) is amended in the second sentence by inserting “or any other aggravated felony” after “torture”.

(c) ADJUSTMENT OF STATUS; CHANGE OF NONIMMIGRANT CLASSIFICATION.—(1) Section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) is amended—

(A) by striking “or” after “section 212(d)(4)(C)”; and

(B) by inserting “; or (5) an alien who has been convicted of an aggravated felony” immediately after “section 217”.

(2) Section 248 of such Act (8 U.S.C. 1258) is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

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

“(5) an alien convicted of an aggravated felony.”

SEC. 148. ANNUAL REPORT.

Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

(1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies;

(2) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to exclusion or deportation; and

(3) methods for identifying and preventing the unlawful reentry of aliens who have been convicted of criminal offenses in the United States and removed from the United States.

SEC. 149. USE OF LEGALIZATION INFORMATION FOR CRIMINAL PROSECUTION PURPOSES.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5)(C) (8 U.S.C. 1255a(c)(5)(C)) is amended by amending the text after subparagraph (C) to read as follows:

“except that the Attorney General shall provide information furnished under this section when such information is requested in writing by a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, or to an official coroner for purposes of affirmatively identifying a deceased individual, whether or not such individual is deceased as a result of a crime, or the Attorney General may provide, in the Attorney General’s discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code. Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.”

(b) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

(1) by striking the period at the end of subparagraph (C) and inserting a comma; and

(2) by adding in full measure margin after subparagraph (C) the following: “except that the Attorney General shall provide information furnished under this section when such information is requested in writing by a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, or to an official coroner for purposes of affirmatively identifying a deceased individual, whether or not such individual is deceased as a result of a crime.”

(c) EFFECTIVE DATE.—The criminal penalty added by subsection (a) shall apply to offenses occurring after the date of enactment of this Act.

TITLE II—ILLEGAL IMMIGRATION INCENTIVE REDUCTION

PART A—PUBLIC BENEFITS CONTROL

SEC. 211. INELIGIBILITY FOR CERTAIN DIRECT FEDERAL BENEFITS.

(a) DIRECT FINANCIAL ASSISTANCE OR BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an unlawful alien (as defined in subsection (d)(2)) shall not be eligible to receive any direct financial assistance or benefits under any Federal program, except—

(A) emergency medical services under title XIX of the Social Security Act,

(B) short-term emergency disaster relief,

(C) assistance or benefits under the National School Lunch Act,

(D) assistance or benefits under the Child Nutrition Act of 1966, and

(E) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(2) NOTIFICATION OF ALIENS.—The Federal agency administering a program referred to in paragraph (1) shall, directly or through the States, notify any unlawful alien who is receiving benefits under the program on the date of the enactment of this Act and whose eligibility for the program is terminated by reason of this subsection.

(b) UNEMPLOYMENT BENEFITS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an alien shall not be eligible to receive any portion of unemployment benefits payable out of Federal funds.

(2) LIMITED EXCEPTION FOR LAWFUL ALIENS.—Paragraph (1) shall not apply to any lawful alien (as defined in subsection (d)(1)) who has been granted employment authorization pursuant to Federal law if the unemployment benefits are attributable to the authorized employment.

(c) HOUSING ASSISTANCE PROGRAMS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives describing the manner in which the Secretary is enforcing section 214 of the Housing and Community Development Act of 1980 and containing statistics with respect to the number of individuals denied financial assistance under such section.

(d) DEFINITIONS.—For the purposes of this section—

(1) LAWFUL ALIEN.—The term “lawful alien” means an individual who is

(A) an alien lawfully admitted to the United States for permanent residence,

(B) an asylee,

(C) a refugee,

(D) an alien whose deportation has been withheld under section 243(h) of the Immigration and Nationality Act,

(E) a parolee who has been paroled for a period of 1 year or more, or

(F) a Chinese national described in section 2(b) of the Chinese Student Protection Act of 1992 (Public Law 102-404) who, as of the date of enactment of this Act, has applied for adjustment of status in accordance with Public Law 102-404.

(2) UNLAWFUL ALIEN.—The term “unlawful alien” means an individual who is not—

(A) a United States citizen; or

(B) a lawful alien.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to benefits received after the date of the enactment of this Act.

SEC. 212. LIMITS ON BENEFITS TO SPONSORED IMMIGRANTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, in determining eligibility for, and the amount of direct financial benefits of, a lawful sponsored alien under Federal benefit programs such as Aid to Families with Dependent Children, Supplemental Security Income, and Food Stamps, the income and resources of the alien shall include—

(1) the income and resources of any person who, as a sponsor of such alien’s entry into the United States, entered into a binding contract of support with respect to such alien, and

(2) the income and resources of such sponsor’s spouse.

The preceding sentence shall apply until such time as the sponsored alien achieves United States citizenship.

(b) EXTENUATING CIRCUMSTANCES.—The income and resources of the sponsor and his or

her spouse shall no longer be included in determining the eligibility of a sponsored lawful alien for Federal benefits when—

(1) the sponsor becomes impoverished, bankrupt, or dies, or

(2) the sponsored lawful immigrant becomes blind or disabled after entry into the United States.

(c) EXEMPTIONS.—For the purposes of this section, the following groups of lawful sponsored immigrants and Federal benefit programs are exempted:

(1) Refugees, asylees, and other lawful aliens who are not sponsored.

(2) Public education, Medicaid, child nutrition, child immunization, and other public health programs.

(d) PROSPECTIVE EFFECT.—This section shall only affect initial applications for Federal benefits that are received after the effective date.

(e) EFFECTIVE DATE.—This section shall take effect 90 days after enactment of this Act.

SEC. 213. SPONSORSHIP ENHANCEMENT.

(a) If otherwise admissible, an alien who is excludable under paragraph (4) of section 212(a) of the Immigration and Nationality Act and has not given a suitable bond (as described in the previous section 213 of the Immigration and Naturalization Act [8 U.S.C. 1183]) can only be admitted when sponsored by an individual (hereafter referred to in this section as the alien's "sponsor") entering into a legally binding contract that guarantees financial responsibility for the alien until he or she becomes a United States citizen.

(b) Such a contract with respect to the admission into the United States of an alien under the Immigration and Naturalization Act shall provide—

(1) that the sponsor shall be liable for the costs incurred by any Federal, State, or political subdivision of a State for general public cash assistance provided to such alien; and

(2) that this responsibility will continue until the date on which the alien becomes a citizen of the United States.

(c) In the case of cash benefits which are provided to lawful sponsored immigrants who are ineligible for public assistance under section 212 of this Act, the binding contract referred to in section 213(a) of this Act may be enforced with respect to an alien against the alien's sponsor in a civil suit brought by the Attorney General or a State or political subdivision of a State in the United States district court for the district in which the sponsor resides for the recovery of the costs incurred by any Federal, State, or political subdivision of a State in providing general cash public assistance provided to such alien for which the sponsor agreed to be liable under such a contract.

(d) The sponsor or the sponsor's estate shall not be liable if the sponsor dies, becomes impoverished due to unforeseen circumstances (as defined by eligibility for Federal assistance), or is adjudicated a bankrupt under title 11, United States Code.

(e) The requirements and powers of this section shall apply only to initial sponsorship-based applications for legal admission into the United States received after the effective date of this section.

(f) This provision shall take effect 90 days after the date of enactment of this Act.

(g) The admitting agencies shall record the use of sponsorship by immigrant to meet the public charge test for admission to the United States set forth in paragraph (4) of section 212(a) of the Immigration and Naturalization Act.

SEC. 214. AUTHORITY TO STATES AND LOCALITIES TO LIMIT ASSISTANCE TO ALIENS AND TO DISTINGUISH AMONG CLASSES OF ALIENS IN PROVIDING GENERAL PUBLIC ASSISTANCE.

(a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

(b) LIMITATION.—The authority under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions are not inconsistent with the eligibility requirements for comparable Federal programs or are less restrictive. For the purposes of this section, attribution to an alien of a sponsor's income and resources for purposes of determining the eligibility for and amount of benefits of an alien shall be considered less restrictive than a prohibition of eligibility.

PART B—EMPLOYER SANCTIONS SUPPORT

SEC. 221. ADDITIONAL IMMIGRATION AND NATURALIZATION SERVICE INVESTIGATORS.

(a) INVESTIGATORS.—The Attorney General is authorized to hire for fiscal years 1995 and 1996 such additional investigators and staff as may be necessary to aggressively enforce existing sanctions against employers who employ workers in the United States illegally or who are otherwise ineligible to work in this country.

(b) LIMITATION ON OVERTIME.—None of the funds made available to the Immigration and Naturalization Service under this section shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$25,000 for any fiscal year.

PART C—ENHANCED WAGE AND HOUR LAWS

SEC. 231. INCREASED PERSONNEL LEVELS FOR THE LABOR DEPARTMENT.

(a) INVESTIGATORS.—The Secretary of Labor, in consultation with the Attorney General, is authorized to hire in the Wage and Hour Division of the Department of Labor for fiscal years 1995 and 1996 such additional investigators and staff as may be necessary to aggressively enforce existing legal sanctions against employers who violate current Federal wage and hour laws.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed to fill the additional positions described in subsection (a) shall be assigned to investigate violations of wage and hour laws in areas where the Attorney General has notified the Secretary of Labor that there are high concentrations of aliens present in the United States in violation of law.

SEC. 232. INCREASED NUMBER OF ASSISTANT UNITED STATES ATTORNEYS.

The Attorney General is authorized to hire for fiscal years 1995 and 1996 such additional Assistant United States Attorneys as may be necessary to prosecute actions brought under this Act, or intended to directly further Congress' intention to preclude and deter illegal immigration.

PART D—AUTHORIZATION VERIFICATION

SEC. 241. WORK AUTHORIZATION VERIFICATION.

The Attorney General, together with the Secretary of Health and Human Services, shall develop and implement a counterfeit-resistant system to verify work eligibility

and federally-funded public assistance benefits eligibility for all persons within the United States. If the system developed includes a document (designed specifically for use for this purpose), that document shall not be used as a national identification card, and the document shall not be required to be carried or presented by any person except at the time of application for federally funded public assistance benefits or to comply with employment eligibility verification requirements.

TITLE III—ENHANCED SMUGGLING CONTROL AND PENALTIES

SEC. 301. INCREASED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (C);

(B) by striking the comma at the end of subparagraph (D) and all that follows through the period and inserting "or"; and

(C) by adding at the end the following:

"(E) engages in any conspiracy to commit any of the preceding acts, or aids or abets the commission of any of the preceding acts, shall be fined under title 18, United States Code, and shall be imprisoned not less than 3 years nor more than 10 years, for each alien with respect to whom any violation of this paragraph occurs.";

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

"(3) Any person who, in the commission of an act described in paragraph (1), willfully subjects any alien to a substantial risk of death or serious bodily harm shall be subject to a term of imprisonment of not less than 3 years nor more than 10 years in addition to any term of imprisonment imposed under that paragraph.

"(4) Any person who in the perpetration of, or in the attempt to perpetrate, any violation of paragraph (1), causes the death of an alien shall be subject to the penalty of death, or life imprisonment, subject to appropriate procedures under chapter 228 of title 18, United States Code."

SEC. 302. DEATH PENALTY PROCEDURES.

Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES RELATING TO SMUGGLING OF ALIENS

"Sec.
"3591. Sentence of death relating to the smuggling of aliens.

"§ 3591. Sentence of death relating to the smuggling of aliens

"A sentence of death for a violation of section 274(a)(4) of the Immigration and Nationality Act may be imposed only if—

"(1) the defendant caused the death of a person intentionally or knowingly, or caused the death of a person through the intentional infliction of serious bodily injury; and

"(2) the sentence is imposed in accordance with the procedures set forth in section 408 (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r) of the Controlled Substances Act (21 U.S.C. 848 (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r)), except that for the purposes of a violation of that law, the references to "this section" in section 408(g) and (h)(1) and "subsection (e)" in section 408(i)(1), (j), (k) (each place it appears), and (p) of the Controlled Substances Act shall be deemed to be references to section 274(a)(4) of that Act. No rule of law, including a rule contained in a

law under which an offense is committed, may be applied in determining whether a penalty of death shall be imposed in a particular case, other than those procedures. Those procedures supersede all other provisions of law that pertain to whether a penalty of death shall be imposed in any particular case (not including the authorization of the penalty itself)."

SEC. 303. SMUGGLING ALIENS FOR COMMISSION OF CRIMES.

Section 274(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(2)) is amended—

(1) in subparagraph (B)—
(A) by striking "or" at the end of clause (ii);

(B) by redesignating clause (iii) as clause (iv); and

(C) by inserting after clause (ii) the following:

"(iii) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year, including violations of or attempted violations of or aiding and abetting violations of or conspiring to violate the Controlled Substances Act (21 U.S.C. 801 et seq.) or laws against prostitution, importation of aliens for immoral purposes, trafficking in firearms, money laundering, gang activities, kidnapping or ransom demands, fraudulent documents, or extortion, the smuggling of known or suspected terrorists or persons involved in organized crime if offenses against such laws are punishable by imprisonment for more than 1 year,"; and

(2) at the end thereof, by striking "be fined" and all that follows through the period and inserting the following: "be fined under title 18, United States Code, and shall be imprisoned not less than 3 years nor more than 10 years.".

SEC. 304. ADDING ALIEN SMUGGLING TO RICO.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" after "law of the United States,";

(2) by inserting "or" at the end of clause (E); and

(3) by adding at the end the following:

"(F) any act in violation of section 1028, 1542, or 1546 of this title for personal financial gain and section 274, 277, or 278 of the Immigration and Nationality Act."

SEC. 305. EXPANDED FORFEITURE FOR SMUGGLING OR HARBORING ILLEGAL ALIENS.

Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended—

(1) by amending subsection (b)(1) to read as follows:

"(b) SEIZURE AND FORFEITURE.—(1) Any property, real or personal, which facilitates or is intended to facilitate, or which has been used in or is intended to be used in the commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2), or which constitutes or is derived from or traceable to the proceeds obtained directly or indirectly from a commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2), shall be subject to seizure and forfeiture, except that—

"(A) no property, used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such property was a consenting party or privy to the illegal act;

"(B) no property shall be forfeited under the provisions of this section by reason of

any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State; and

"(C) no property shall be forfeited under this paragraph to the extent of an interest of any owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner, unless such action or omission was committed by an employee or agent of the owner, and facilitated or was intended to facilitate, or was used in or intended to be used in, the commission of a violation of subsection (a) or of section 274A(a)(1) or 274A(a)(2) which was committed by the owner or which was intended to further the business interests of the owner, or to confer any other benefit upon the owner.";

(2) in paragraph (2)—

(A) by striking "conveyance" both places it appears and inserting "property"; and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, or was intended to facilitate";

(3) in paragraph (3)—

(A) by inserting "(A)" immediately after "(3)", and

(B) by adding at the end the following:

"(B) Before the seizure of any real property pursuant to this section, the Attorney General shall provide notice and an opportunity to be heard to the owner of the property. The Attorney General shall prescribe such regulations as may be necessary to carry out this subparagraph.";

(4) in paragraphs (4) and (5) by striking "a conveyance" and "conveyance" each place such phrase or word appears and inserting "property"; and

(5) in paragraph (4) by—

(A) striking "or" at the end of subparagraph (C),

(B) by striking the period at the end of subparagraph (D) and inserting "; or", and

(C) by inserting at the end the following new subparagraph:

"(E) transfer custody and ownership of forfeited property to any Federal, State, or local agency pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c))."

SEC. 306. WIRETAP AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c), by inserting after "trains" the following: ", or a felony violation of section 1028 (relating to production of false identification documentation), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents)";

(2) by striking "or" after paragraph (1);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively; and

(4) by inserting after paragraph (1) the following new paragraph:

"(m) a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens);"

SEC. 307. EFFECTIVE DATE.

The amendments made by this title shall apply to offenses occurring after the date of enactment of this Act.

TITLE IV—ADMISSIONS AND DOCUMENT FRAUD CONTROL

PART A—PORT OF ENTRY INSPECTIONS

SEC. 411. RESTRICTIONS ON ADMISSIONS FRAUD.

(a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR FAILURE TO PRESENT DOCUMENTS.—Section 212(a)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)) is amended—

(1) by striking "(C) MISREPRESENTATION" and inserting the following:

"(C) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS"; and

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

"(iii) FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.—

"(I) Any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States presents any document which, in the determination of the immigration officer, is forged, counterfeit, altered, falsely made, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, is excludable.

"(II) Any alien who is required to present a document relating to the alien's eligibility to enter the United States prior to boarding a common carrier for the purpose of coming to the United States and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States is excludable."

(b) PROVISION FOR ASYLUM AND OTHER DISCRETIONARY RELIEF.—(1) Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (a), any alien who, in seeking entry to the United States or boarding a common carrier for the purpose of coming to the United States, presents any document which, in the determination of the immigration officer, is fraudulent, forged, stolen, or inapplicable to the person presenting the document, or otherwise contains a misrepresentation of a material fact, may not apply for or be granted asylum, unless presentation of the document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution.

"(2) Notwithstanding subsection (a), an alien who boards a common carrier for the purpose of coming to the United States through the presentation of any document which relates or purports to relate to the alien's eligibility to enter the United States, and who fails to present such document to an immigration officer upon arrival at a port of entry into the United States, may not apply for or be granted asylum, unless presentation of such document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution.

"(3) Notwithstanding subsection (a), an alien described in section 235(d)(3) may not apply for or be granted asylum, unless the person departed directly from a country in which the alien has a credible fear of persecution or of return to persecution.

"(4) Notwithstanding paragraphs (1), (2), and (3), the Attorney General may, in the Attorney General's sole discretion, permit an alien described in paragraphs (1), (2), or (3) to apply for asylum.

"(5)(A) When an immigration officer has determined that an alien has sought entry under either of the circumstances described in paragraph (1) or (2) or is an alien described

in section 235(d)(3) and the alien has indicated a desire to apply for asylum, the immigration officer shall refer the matter to an asylum officer who shall interview the alien to determine whether presentation of the document was pursuant to direct departure from a country in which the alien has a credible fear of persecution or of return to persecution, or in the case of an alien described in section 235(d)(3), whether the alien had directly departed from such a country.

"(B) If the officer determines that the alien does not have a credible fear of persecution or of return to persecution in the country in which the alien was last present prior to attempting entry into the United States or arriving in the United States or a port of entry under the circumstances described in section 235(d)(3), the alien may be specially excluded and deported in accordance with section 235(e).

"(C) The Attorney General shall provide by regulation for the prompt supervisory review of a determination under subparagraph (B) that an alien does not have a credible fear of persecution or of return to persecution in the country in which the alien was last present.

"(D) The Attorney General shall provide information concerning the credible fear determination process described in this paragraph to persons who may be eligible for that process under the provisions of this subsection. An alien who is eligible for a credible fear determination pursuant to subparagraph (A) may consult with a person or persons of his or her choosing prior to the credible fear determination process or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not unduly delay the process.

"(6) As used in this section, the term 'credible fear of persecution or of return to persecution' means—

"(A) it is more probable than not that the statements made by the alien in support of his or her claim are true; and

"(B) there is a significant danger that the alien would be returned to a country in which the alien would have a credible fear of persecution.

"(7) As used in this subsection, the term 'asylum officer' means a person who—

"(A) has had professional training in country conditions, asylum law, and interview techniques;

"(B) has been employed for at least one year in a position the primary responsibility of which is the adjudication of asylum claims; and

"(C) is supervised by an officer who meets conditions in subparagraphs (A) and (B)."

(2) Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

"(d)(1) Subject to paragraph (2), any alien who has not been admitted to the United States, and who is excludable under section 212(a)(6)(C)(iii), or who is an alien described in paragraph (3), is ineligible for withholding of deportation pursuant to section 243(h), and may not apply therefor or for any other relief under this Act, except that an alien found to have a credible fear of persecution or of return to persecution in accordance with section 208(e) shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

"(2) An alien described in paragraph (1) who has been found ineligible to apply for

asylum under section 208(e) may be returned under the provisions of this section only to a country in which he or she has no credible fear of persecution or of return to persecution. If there is no country to which the alien can be returned in accordance with the provisions of this paragraph, the alien shall be taken before a special inquiry officer for exclusion proceedings in accordance with section 236 and may apply for asylum, withholding of deportation, or both, in the course of such proceedings.

"(3) Any alien who is excludable under section 212(a), and who has been brought or escorted under the authority of the United States—

"(A) into the United States, having been on board a vessel encountered seaward of the territorial sea by officers of the United States, or

"(B) to a port of entry, having been on board a vessel encountered within the territorial sea or internal waters of the United States,

shall either be detained on board the vessel on which such person arrived or in such facilities as are designated by the Attorney General or paroled in the discretion of the Attorney General pursuant to section 212(d)(5) pending accomplishment of the purpose for which the person was brought or escorted into the United States or to the port of entry, except that no alien shall be detained on board a public vessel of the United States without the concurrence of the head of the department under whose authority the vessel is operating."

(3) Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended—

(A) in the second sentence of paragraph (1) by striking "Deportation" and inserting "Subject to section 235(d)(2), deportation"; and

(B) in the first sentence of paragraph (2) by striking "If" and inserting "Subject to section 235(d)(2), if".

SEC. 412. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMISSIONS FRAUD.

Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225), as amended by section 311(b)(2), is further amended by adding at the end the following new subsection:

"(e)(1) Subject to paragraph (d)(2), any alien (including an alien crewman) who—

"(A) may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under section 212(a)(6)(C)(iii) of the Immigration and Nationality Act may be ordered specially excluded and deported by the Attorney General, either by a special inquiry officer or otherwise; or

"(B) was brought to the United States pursuant to subsection (d)(3) and who may appear to an examining immigration officer to be excludable may be ordered specially excluded and deported by the Attorney General without any further inquiry, either by a special inquiry officer or otherwise.

"(2) Such special exclusion order is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an applicant who claims to have been lawfully admitted for permanent residence. A special exclusion order entered in accordance with the provisions of this subsection shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236, except that judicial review of such an order shall be available only under section 106.

"(3) Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman."

SEC. 413. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows: "JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION"; and

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

"(d)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of sections 208(e), 212(a)(6)(C)(iii), 235(d), and 235(e). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection, nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

"(2) Judicial review of any cause, claim, or individual determination covered under paragraph (d)(1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

"(A) whether the petitioner is an alien, if the petitioner makes a showing that his or her claim of United States nationality is not frivolous;

"(B) whether the petitioner was ordered specially excluded; and

"(C) whether the petitioner can prove by a preponderance of the evidence that he or she is an alien lawfully admitted for permanent residence and is entitled to such further inquiry as is prescribed by the Attorney General pursuant to section 235(e)(2).

"(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d). Any alien excludable under section 212(a)(6)(C)(iii) who receives a hearing under section 236, whether by order of court or otherwise, may thereafter obtain judicial review of any resulting final order of exclusion pursuant to subsection (b).

"(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner. There shall be no review of whether the alien is actually excludable under section 212(a)(6)(C)(iii) or entitled to any relief from exclusion."

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225), as amended by sections 311(b)(2) and 312, is further amended by adding at the end the following new subsection:

"(f) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under sections 275 and 276 of the Immigration and Nationality Act, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under sections 235, 236, and 242 of the Immigration and Nationality Act."

SEC. 414. EFFECTIVE DATE.

The amendments made by this title shall be effective upon the day after the date of enactment of this Act, and shall apply to aliens who arrive in or seek admission to the United States after such date. Notwithstanding any other provision of law, the Attorney General may issue interim final regulations to implement the provisions of such amendments at any time after the date of enactment of this Act, which regulations may become effective upon publication without prior notice or opportunity for public comment.

PART B—ENHANCED PENALTIES**SEC. 421. INCREASED PENALTIES FOR DOCUMENT FRAUD.**

(a) **FRAUD AND MISUSE OF IMMIGRATION DOCUMENTS.**—Section 1546(a) of title 18, United States Code, is amended by striking “five years” and inserting “ten years”.

(b) **FRAUD AND MISUSE OF GOVERNMENT-ISSUED IDENTIFICATION DOCUMENTS.**—Section 1028(b)(1) of title 18, United States Code, is amended by striking “five years” and inserting “ten years”.

(c) **CHANGES TO THE SENTENCING LEVELS.**—Pursuant to section 944 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, relating to defendants convicted of violating, or conspiring to violate, sections 1546(a) and 1028(a) of title 18, United States Code. The basic offense level under section 2L2.1 of the United States Sentencing Guidelines shall be increased to—

(1) not less than offense level 15 if the offense involved 1,000 or more documents;

(2) not less than offense level 20 if the offense involved 2,000 or more documents, or if the documents were used to facilitate any other criminal activity described in section 212(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(A)(i)(II)) or in section 101(a)(43) of such Act, as amended by this Act;

(3) not less than offense level 25 if the offense involved—

(A) the provision of documents to a person known or suspected of engaging in a terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B));

(B) the provision of documents to facilitate a terrorist activity or to assist a person to engage in terrorist activity (as such terms are defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

(C) the provision of documents to persons involved in racketeering enterprises (as such acts or activities are defined in section 1952 of title 18, United States Code).

SEC. 422. PENALTIES FOR FAILURE TO DISCLOSE ROLE AS PREPARER OF FRAUDULENT DOCUMENTS.

(a) **ACTIVITIES PROHIBITED.**—Section 274C(a) of the Immigration and Nationality Act (8 U.S.C. 1324c(a)) is amended—

(1) by striking “or” at the end of paragraph (3);

(2) by striking the period and inserting “, or” at the end of paragraph (4); and

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

“(5) in reckless disregard of the fact that the information is false or does not relate to the applicant, to prepare, to file, or to assist another in preparing or filing, documents which are falsely made (including but not limited to documents which contain false information, contain material misrepresenta-

tions, or information which does not relate to the applicant) for the purpose of satisfying a requirement of this Act.”.

(b) **CONFORMING AMENDMENTS FOR CIVIL PENALTIES.**—Section 274C(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1324c(d)(3)) is amended by striking “each document used, accepted, or created and each instance of use, acceptance, or creation” each of the two places it appears and inserting “each instance of a violation under subsection (a)”.

(c) **CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.**—Section 274C of the Immigration and Nationality Act (8 U.S.C. 1324c) is amended by adding at the end the following new subsection:

“(e) **CRIMINAL PENALTIES FOR FAILURE TO DISCLOSE ROLE AS DOCUMENT PREPARER.**—(1) Whoever, in any matter within the jurisdiction of the Service under section 208 of this Act, knowingly and willfully fails to disclose, conceals, or covers up the fact that they have, on behalf of any person and for a fee or other remuneration, prepared or assisted in preparing an application which was falsely made (as defined in section 274C(a)) for immigration benefits pursuant to section 208 of this Act, or the regulations promulgated thereunder, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not less than 2 nor more than 5 years, or both, and prohibited from preparing or assisting in preparing, regardless of whether for a fee or other remuneration, any other such application.

“(2) Whoever, having been convicted of a violation of paragraph (1), knowingly and willfully prepares or assists in preparing an application for immigration benefits pursuant to this Act, or the regulations promulgated thereunder, regardless of whether for a fee or other remuneration, shall be guilty of a felony and shall be fined in accordance with title 18, United States Code, imprisoned for not less than 5 years nor more than 15 years, or both, and prohibited from preparing or assisting in preparing any other such application.”.

SEC. 423. CIVIL PENALTIES FOR FRAUD, MISREPRESENTATION, AND FAILURE TO PRESENT DOCUMENTS.

Section 274C(a) (8 U.S.C. 1324c(a)), as amended by section 412 of this Act, is further amended—

(1) by striking “or” at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting “; or”; and

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

“(6) to present before boarding a common carrier for the purpose of coming to the United States a document which relates to the alien's eligibility to enter the United States and to fail to present such document to an immigration officer upon arrival at a United States port of entry.

The Attorney General may, in his or her discretion, waive the penalties of this section with respect to an alien who knowingly violates paragraph (6) if the alien is granted asylum under section 208 or withholding of deportation under section 243(h).”.

SEC. 424. EFFECTIVE DATE.

The amendments made by this title shall apply to offenses or violations occurring after the date of enactment of this Act.

TITLE V—ASYLUM REFORM**SEC. 501. PENALTIES FOR FRIVOLOUS APPLICATIONS.**

(a) **CIVIL PENALTIES.**—

(1) **PROHIBITED ACTIVITIES.**—Section 274C of the Immigration and Nationality Act (8 U.S.C. 1324c), as amended by sections 412 and 413 of this Act, is further amended by inserting at the end of subsection (a) the following new sentence: “For the purposes of this subsection, the phrase ‘falsely make any document’ includes the preparation or provision of any application for benefits under this Act which was made knowingly or in reckless disregard of the fact that such application has no basis in law or fact or which otherwise fails to contain information pertaining to the applicant.”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) applies to the preparation of applications before, on, or after the date of enactment of this Act.

(b) **CRIMINAL PENALTIES.**—The fourth paragraph of section 1546(a) of title 18, United States Code, is amended to read as follows:

“Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document which contains any such false statement or which fails to contain any reasonable basis in law or fact—”.

SEC. 502. ASYLUM AND WORK AUTHORIZATION.

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

“(f) An applicant for asylum may not engage in employment in the United States except pursuant to this subsection. The Attorney General may deny, suspend, or otherwise place conditions on any application for or grant of authorization to engage in employment in the United States to any alien who makes an application under this section. The Attorney General shall issue regulations to prescribe the conditions for denial, suspension, or conditioning of such authorization, and shall include in such regulations a plan to address sudden, substantial increases in asylum applications and repeated attempts by aliens to gain such authorization without stating a credible fear of persecution.”.

SEC. 503. RESOURCES TO ADDRESS ASYLUM BACKLOG.

(a) **PURPOSE AND PERIOD OF AUTHORIZATION.**—For the purpose of reducing the number of applications pending under sections 208 and 243(h) of the Immigration and Nationality Act (8 U.S.C. 1158 and 8 U.S.C. 1253) as of the date of enactment of this Act, the Attorney General shall have the authority described in subsections (b) and (c) for a period of 2 years, beginning 90 days after the date of enactment of this Act.

(b) **PROCEDURES FOR PROPERTY ACQUISITION ON LEASING.**—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend out of funds made available to the Department of Justice for the administration of the Immigration and Nationality Act such amounts as may be necessary for the leasing or acquisition of property to carry out the purpose described in subsection (a).

(c) **USE OF FEDERAL RETIREES.**—(1) In order to carry out the purpose described in subsection (a), the Attorney General may employ temporarily not more than 300 persons who, by reason of retirement on or before January 1, 1993, are receiving—

(A) annuities under the provisions of subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title;

(B) annuities under any other retirement system for employees of the Federal Government; or

(C) retired or retainer pay as retired officers of regular components of the uniformed services.

(2) In the case of a person retired under the provisions of subchapter III of chapter 83 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) the annuity of such person may not be terminated,

(C) payment of annuity to such person may not be discontinued, and

(D) the annuity of such person may not be recomputed,

under section 8344 of such title by reason of temporary employment authorized in paragraph (1).

(3) In the case of a person retired under the provisions of chapter 84 of title 5, United States Code—

(A) no amounts may be deducted from the person's pay,

(B) contributions to the Civil Service Retirement and Disability Fund may not be made, and

(C) the annuity of such person may not be recomputed,

under section 8468 of such title by reason of temporary employment authorized in paragraph (1).

(4) The retired or retainer pay of a retired officer of a regular component of a uniformed service may not be reduced under section 5532 of title 5, United States Code, by reason of temporary employment authorized in paragraph (1).

(5) The President shall apply the provisions of paragraphs (2) and (3) to persons referred to in paragraph (1)(B) in the same manner and to the same extent as such provisions apply to persons referred to in paragraph (1)(A).

SEC. 504. REDUCTION OF INCENTIVES TO DELAY PROCEEDINGS.

(a) RELIEF UNDER SECTION 212(c).—Section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended—

(1) by redesignating subsection (c) as subsection (c)(1); and

(2) by adding at the end the following:

"(2) For the purpose of satisfying the 7-year period described in paragraph (1), no time shall count toward such period after the alien has received an order to show cause issued under section 242 or 242B."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all applications for relief under section 212(c) or 244 of the Immigration and Nationality Act filed after the date of enactment of this Act.

SEC. 505. PARTIAL REVOCATION OF EXECUTIVE ORDER.

Section 4 of Executive Order No. 12711 of April 11, 1990, and any rule, regulation, or order issued under that section, shall be of no force or effect, except that nothing in this Act shall invalidate, or otherwise retroactively affect, any final determination of eligibility for asylum made before the date of enactment of this Act.

TITLE VI—BORDER CROSSING USER FEE

SEC. 601. IMPOSITION OF FEES.

(a) LAND BORDER AND PORT OF ENTRY USER FEE ACCOUNT.—Section 286(q) of the Immigration and Nationality Act (8 U.S.C. 1356(q)) is amended to read as follows:

"(q) LAND BORDER AND PORT OF ENTRY USER FEE ACCOUNT.—(1) The Attorney General, after consultation with the Secretary of State, shall impose at the time of a person's

entry into the United States by land or by sea a fee of \$1 for the person's use of border or port facilities and services of the Immigration and Naturalization Service.

"(2) Notwithstanding subsection (b), the Attorney General may—

"(A) adjust the border crossing user fee periodically to compensate for inflation and other escalation in the cost of carrying out the purposes of this Act; and

"(B) develop and implement special discounted fee programs for frequent border crossers including, but not limited to, commuter coupon books or passes.

"(3) All fees collected under paragraph (1) shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States and shall remain available until expended. Such account shall be known as the 'Land Border and Port of Entry User Fee Account'.

"(4)(A) The Secretary of the Treasury shall refund out of the Land Border and Port of Entry User Fee Account, at least on a quarterly basis, amounts to any appropriations for expenses incurred in providing inspection services at land border points and seaports of entry. Such expenses shall include—

"(i) the provision of inspection services;

"(ii) the operation and maintenance of inspection facilities at land border and seaport points of entry;

"(iii) the expansion, operation, and maintenance of information systems for immigrant control;

"(iv) the hire of additional permanent and temporary inspectors, including those authorized by section 111 of the Illegal Immigration Control and Enforcement Act of 1994;

"(v) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration), including the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General;

"(vi) the detection of fraudulent documents used by persons seeking to enter the United States; and

"(vii) providing for the administration of the Land Border and Port of Entry User Fee Account.

"(B) Beginning with the fiscal year which begins after the effective date of this subsection, amounts required to be refunded in any fiscal year shall be refunded in accordance with estimates made in the budget request of the Attorney General for that fiscal year. Any proposed change in an amount specified in such budget request shall only be made after notification, at least 15 days in advance of the proposed refund, to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

"(5) Beginning two years after the date of enactment of this Act, and every two years thereafter, the Attorney General shall prepare and submit to the Congress a report containing—

"(A) a statement of the financial condition of the Land Border and Port of Entry User Fee Account, including the beginning account balance, revenues, withdrawals, and ending account balance and projection for the next two fiscal years; and

"(B) a recommendation, if necessary, regarding any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two-year period equal, as closely as possible, the cost of providing the facilities and services described in paragraph (1)."

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall take effect 6 months after the date of enactment of this Act.

(2) Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit in writing to the Committees on the Judiciary and the Committees on Appropriations of the House of Representatives and of the Senate a plan detailing the proposed implementation of section 286(q) of the Immigration and Nationality Act (as amended by this Act).

(3) Effective 6 months after the date of enactment of this Act, the fourth proviso under the heading "Immigration and Naturalization Service, Salaries and Expenses" in Public Law 103-121 is repealed.

(c) FURTHER USE OF FUND FOR BORDER SECURITY.—(1) Notwithstanding any other provision of law, upon the date of enactment of this Act, the Secretary of the Treasury shall refund at the beginning of each fiscal year to the Appropriation Account of the Immigration and Naturalization Service funds in the Land Border Inspection Fee Account which remain unobligated from the preceding fiscal year, for use as follows:

(A) For the hiring, training, support, and equipping of—

(i) Border Patrol agents, and of related support personnel authorized in section 111 of this Act;

(ii) the Immigration and Naturalization Service land-border inspectors authorized by section 121 of this Act;

(iii) the Immigration and Naturalization Service investigators authorized by section 221 of this Act;

(iv) the Department of Labor inspectors authorized by section 231 of this Act; and

(v) the Assistant United States Attorneys authorized by section 232 of this Act.

(B) Not to exceed a total of \$5,000,000 in fiscal years 1995 and 1996, to carry out the project described in section 134.

(C) The identification, detention, and deportation of individual aliens subject to final orders of deportation.

(D) To the extent available—

(i) for costs relating to land border crossing infrastructure improvement as authorized by section 122 of this Act;

(ii) for costs relating to the acquisition by the Department of Justice of technology and equipment as authorized by section 114 of this Act;

(iii) for the cost of facilitating and expanding the activities of the Organized Crime and Drug Enforcement Interagency Task Force in order to fully abate the flow of narcotics and other illegal drugs into the United States;

(iv) for the cost of increasing rewards for information leading to the arrest and conviction of terrorists;

(v) for the cost of conducting classes, or otherwise assisting or encouraging, legal immigrants to the United States to attain American citizenship; and

(vi) for the cost of such other activities that, in the discretion of the Attorney General, will reduce: illegal transit of the Nation's borders, the flow of illegal drugs across such borders, the time necessary to process applications for asylum in the United States, and the number of alien criminals incarcerated in this country.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice such additional funds as may be necessary to satisfy the requirements of this Act not otherwise funded by this title.●

ADDITIONAL COSPONSORS

S. 173

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. CHAFFEE] was added as a cosponsor of S. 173, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes.

S. 1138

At the request of Mr. DANFORTH, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 1138, a bill to provide resources for child-centered activities conducted, where possible, in public school facilities.

S. 1443

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 1443, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on luxury passenger vehicles.

S. 1495

At the request of Mr. INOUE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1495, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 1669

At the request of Mrs. HUTCHISON, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1669, a bill to amend the Internal Revenue Code of 1986 to allow homemakers to get a full IRA deduction.

S. 1942

At the request of Mr. EXON, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 1942, a bill to authorize appropriations for the local rail freight assistance program.

S. 1951

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 1951, a bill to establish a comprehensive system of reemployment services, training and income support for permanently laid off workers, to facilitate the establishment of one-stop career centers to serve as a common point of access to employment, education and training information and services, to develop an effective national labor market information system, and for other purposes.

S. 2118

At the request of Mr. DORGAN, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cospon-

sor of S. 2118, a bill to improve the national crime database and create a Federal cause of action for early release of violent felons.

S. 2120

At the request of Mr. INOUE, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2120, a bill to amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

S. 2178

At the request of Mr. DASCHLE, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2178, a bill to provide a program of compensation and health research for illnesses arising from service in the Armed Forces during the Persian Gulf war.

S.J. RES. 165

At the request of Mr. COCHRAN, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S.J. Res. 165, a joint resolution to designate the month of September 1994 as "National Sewing Month."

S. CON. RES. 66

At the request of Ms. MIKULSKI, the names of the Senator from Nebraska [Mr. EXON] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. Con. Res. 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE RESOLUTION 224—ORIGINAL RESOLUTION REPORTED TO AMEND THE STANDING RULES OF THE SENATE FOR THE USE OF THE RECORDING STUDIO AND MASS MAILINGS WITH RESPECT TO UNCONTESTED ELECTIONS

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

S. RES. 224

Resolved, That (a) paragraph 1 of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested."

(b) Paragraph 6(a) of rule XL of the Standing Rules of the Senate is amended by striking the period at the end and inserting ", unless the candidacy of the Senator in such election is uncontested."

SENATE RESOLUTION 225—ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

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

S. RES. 225

Resolved, That the Committee on Rules and Administration is authorized to expend from

the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed \$79,040 for the purchase of one hundred and four thousand 1995 "We the People" calendars. The calendars shall be distributed as prescribed by the committee.

SENATE RESOLUTION 226—EXPRESSING THE SENSE OF THE SENATE RELATIVE TO NEGOTIATIONS UNDER THE PACIFIC SALMON TREATY

Mr. GORTON (for himself, Mr. STEVENS, Mr. MURKOWSKI, Mr. PACKWOOD, and Mr. HATFIELD) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 226

Whereas, customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, of vessels through waters commonly referred to as the "Inside Passage" off the Pacific coast of Canada;

Whereas, Canada is a signatory to the United Nations Convention on the Law of the Sea;

Whereas, Canada has recently announced that it will require commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through certain waters of the "Inside Passage" off the Pacific Coast of Canada;

Whereas, such action by Canada may endanger the lives of Americans who would—if unable to pay the fee—have to take their small boats into the open ocean to pass between United States destinations;

Whereas, Canada has attempted to justify this action as necessary to encourage the United States to accept changes sought by Canada to the Pacific Salmon Treaty;

Whereas, Canada has announced that this transit license is the first of a series of actions designed to be "to Canada's advantage and the United States' disadvantage";

Whereas, the Canadian transit license has no conceivable relationship to fishery management under the Pacific Salmon Treaty;

Whereas, the United States will not be forced to negotiate by illegal acts;

Whereas, this action is a clear violation of international law, including the United Nations Convention on the Law of the Sea, and in particular Article 26 of that Convention, which specifically prohibits such fees;

Whereas, there is precedent in U.S. law for reimbursing American vessels forced to pay such fees when the U.S. determines that the fees are illegal; Now, therefore be it

RESOLVED by the Senate and House of Representatives of the United States in Congress assembled, that—

1. The United States should reimburse the owner of any United States fishing vessel forced to pay such transit license fee in accordance with section 3 of the Fishermen's Protective Act (22 U.S.C. 1973), and should seek reimbursement for any such payments from Canada under section 5 of that Act (22 U.S.C. 1975);

2. To the extent section 3 of the Fishermen's Protective Act does not allow reimbursement for vessels which have not been "seized," Congress should amend the Act to authorize such reimbursement for all vessel owners who pay the transit license fee;

3. The United States should prohibit the use of United States waters off Alaska, including waters in and near the Dixon entrance, for purposes of anchorage without

proper customs clearance by commercial fishing vessels of Canada;

4. The President should direct the Coast Guard to take all steps necessary in accordance with the recognized principles of international law to provide for safety of U.S. citizens exercising their right of passage in Canadian waters.

5. The President should review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that continuation of the transit license policy would be against Canada's long term interests, and should immediately implement any actions which the President deems appropriate until Canada rescinds the policy;

6. The President should immediately convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of United States vessels in violation of customary international law; and

7. The United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

AMENDMENTS SUBMITTED

FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT OF 1994

D'AMATO AMENDMENT NO. 1782

Mr. D'AMATO proposed an amendment to the bill (S. 1491) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations, and for other purposes; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs [special subcommittee] shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the circumstances surrounding and the propriety of the commodities-futures trading activities of Hillary Rodham Clinton.

MITCHELL AMENDMENT NO. 1783

Mr. DASCHLE (for Mr. MITCHELL) proposed an amendment to amendment No. 1782 proposed by Mr. D'AMATO to the bill S. 1491, supra; as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

MURKOWSKI AMENDMENT NO. 1784

Mr. MURKOWSKI proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs [special subcommittee] shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the Resolution Trust Corporation's internal handling of the criminal referrals concerning Madison Guaranty Savings and Loan Association. The term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MITCHELL AMENDMENT NO. 1785

Mr. DASCHLE (for Mr. MITCHELL) proposed an amendment to amendment No. 1784 proposed by Mr. MURKOWSKI to the bill S. 1491, supra; as follows:

In lieu of the matter proposed insert the following:

(1) Additional hearings: in the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

LOTT AMENDMENT NO. 1786

Mr. LOTT proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, for purposes of conducting such hearings and related activities of the Committee on Banking, Housing, and Urban Affairs required under this Act, such hearings shall begin on a date no later than July 15, 1994.

MITCHELL AMENDMENT NO. 1787

Mr. MITCHELL proposed an amendment to amendment No. 1786 proposed by Mr. LOTT to the bill S. 1491, supra; as follows:

Strike the matter proposed and insert the following:

Notwithstanding any other provision of this Act, for purposes of conducting such hearings and related activities of the Committee on Banking, Housing, and Urban Affairs required under this Act, such hearings shall begin on a date no later than July 29, 1994, or within 30 days after the conclusion of the first phase of the independent counsel's investigation, whichever is the earlier.

SPECTER AMENDMENT NO. 1788

Mr. SPECTER proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the independence of the Resolution Trust Corporation, Federal banking agencies, and other Federal regulatory agencies, including any improper contacts among officials of the White House, the Department of the Treasury, the Resolution Trust Corporation, the Office of Thrift Supervision, and any other Federal agency.

MITCHELL AMENDMENT NO. 1789

Mr. MITCHELL proposed an amendment to amendment No. 1788 proposed by Mr. SPECTER to the bill S. 1491, supra; as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

BOND AMENDMENT NO. 1790

Mr. BOND proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the Department of Justice's handling of the Resolution Trust Corporation's criminal referrals relating to Madison Guaranty Savings and Loan Association. The term "Madison Guaranty Savings and Loan Association" includes any subsidiary company, affiliated company, or business owned or controlled, in whole or in part, by Madison Guaranty Savings and Loan Association, its officers, directors, or principal shareholders.

MITCHELL AMENDMENT NO. 1791

Mr. MITCHELL proposed an amendment to amendment No. 1790 proposed by Mr. BOND to the bill S. 1491, supra; as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

BOND AMENDMENT NO. 1792

Mr. BOND proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about the sources of funding and the lending practices of Capital Management Services, Inc., and its supervision and regulation by the Small Business Administration, including loans to Susan McDougal and the alleged diversion of funds to Whitewater Development Corporation.

MITCHELL AMENDMENT NO. 1793

Mr. MITCHELL proposed an amendment to amendment No. 1792 proposed by Mr. BOND to the bill S. 1491, supra; as follows:

In lieu of the matters proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgement of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

MCCONNELL AMENDMENT NO. 1794

Mr. MCCONNELL proposed an amendment to the bill S. 1491, supra; as follows:

At the appropriate place, insert the following:

Notwithstanding any other provision of this Act, the Committee on Banking, Housing, and Urban Affairs shall conduct an investigation into, study of, and hearings on, all matters which have any tendency to reveal the full facts about any issues developed during, or arising out of, the hearings conducted by the Committee on Banking, Housing, and Urban Affairs under this Act.

MITCHELL AMENDMENT NO. 1795

Mr. FORD (for Mr. MITCHELL) proposed an amendment to amendment No. 1794 proposed by Mr. MCCONNELL to the bill S. 1491, supra; as follows:

In lieu of the matter proposed insert the following:

(1) Additional Hearings: In the fulfillment of the Senate's constitutional oversight role, additional hearings on the matters identified in the resolution passed by the Senate by a vote of 98-0 on March 17, 1994 should be authorized as appropriate under, and in accordance with, the provisions of that resolution.

(2) Any additional hearings should be structured and sequenced in such a manner that in the judgment of the two Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 15, 1994, at 3 p.m. in executive session, to consider the nominations of Adm. Charles R. Larson, USN and Lt. Gen. Buster C. Glosson, USAF to retire in grade.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, June 15, beginning at 10 a.m. to conduct a hearing on the future of the Federal Home Loan Bank System.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on June 15, 1994, at 10 a.m. on the NOAA authorization.

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

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be permitted to meet today, Wednesday, June 15, 1994, at 10 a.m., to hear testimony on S. 1870, the Retirement Protection Act of 1993; hear testimony on the nomination of Valerie Lau to be Inspector General of the Treasury Department; to consider the nomination of Valerie Lau to be the Inspector General of the Treasury Department; and to consider the nomination of Ronald Noble to be Under Secretary of the Treasury—Enforcement.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, June 15, 1994, at 5 p.m. to receive a closed briefing from the administration on the North Korea nuclear situation.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 15, 1994, beginning at 9:30 a.m., in 485 Russell Senate Office Building on S. 2036, the Indian Self-Determination Contract Reform Act of 1994.

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

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 15, 1994 at 2:30 p.m. to hold a hearing on "proposals in Immigration Reform.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet on June 15, 1994 at 11 a.m. for an executive session to consider S. 1513, and H.R. 6, Improving America's Schools Act, and pending nominations.

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

SUBCOMMITTEE ON CLEAN WATER, FISHERIES AND WILDLIFE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Clean Water, Fisheries and Wildlife, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, June 15, beginning at 9:30 a.m., to conduct a hearing on Reauthorization of the Endangered Species Act.

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

SUBCOMMITTEE ON CONSTITUTION

Mr. FORD. Mr. President, I ask unanimous consent that the subcommittee on Constitution, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, June 15, 1994, at 10 a.m., to hold a hearing on line-item veto.

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

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, June 15, 1994, to review arms export licensing.

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

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, TRADE, OCEANS AND ENVIRONMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Wednesday, June 15, 1994, at 9:30 a.m. to markup legislation on the foreign aid reform proposal.

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

ADDITIONAL STATEMENTS

THE GROWING INTERNATIONAL DRUG PROBLEM

• Mr. DECONCINI. Mr. President, there is an issue of great importance which I

feel needs to be addressed immediately—drug trafficking—which has reached enormous proportions throughout the world. Recently, I addressed the serious drug production and trafficking problem in Syria where 90 percent of all arable land in Syria's Bekaa Valley is being used to cultivate and transship narcotics. But the incredible drug trade boom is not limited to Syria. The situation in Southeast Asia is equally appalling. The Golden Triangle is fast becoming the leader in illegal narcotics cultivation in the world. The Golden Triangle area of Laos, Burma, and Thailand cultivated 194,720 hectares of opium in 1993, an amount equal to the cocaine cultivation in the Andean mountain region. Yet little attention is being focused on this enormous problem.

Much of the opium produced in the Golden Triangle passes through Nigeria before reaching Europe or the United States. We cannot hypocritically proclaim our support for the universal war on drugs and then ignore this growing problem in the Golden Triangle. The situation is quickly becoming out of control. We are on the brink of catastrophe, with the Golden Triangle at the epicenter.

As I mentioned above, Nigeria also poses a pressing problem. In Africa, Nigeria is the main transfer point for narcotics from Southeast Asia and South America. Levels of corruption in the Nigerian Customs Service have reached alarming proportions even though the Nigerian Government recently purged the customs service of the violators of the law. Unfortunately, history shows that bribery will quickly convert new customs officials to the corrupted way of life.

Nigeria has few major dealers internally since there is a very low level of narcotics cultivation in the country, but transshipment of drugs is a horrendous problem. Nigeria is the main transfer point for drugs, especially cocaine from Brazil and opium from the Golden Triangle. Sadly, there is no significant antidrug trafficking program in Nigeria because the Government has no motivation to do so. By cutting down on the drug flow, they will also be cutting down on the cash flow, and Nigeria is already an impoverished nation. A solution must be found to combat the torrent of narcotics pouring through Nigeria.

Mr. President, every one of these situations is critical. The time to act is now, because this problem will not go away. The longer we delay, the bigger the problem will become. We cannot afford to stand idly by while these areas produce ton after ton of illegal narcotics which may end up on our streets and maim and kill our youth. The war on drugs must be applied equally to all corners of the globe. I hope the administration and my colleagues in the Senate will pay attention to the warning

signs of this growing international drug trade, or we will pay a far higher price for our inattention and inaction down the road. •

THE ENDANGERED SPECIES ACT

• Mr. SHELBY. Mr. President, I ask unanimous consent that an article from the March 22, 1994, Birmingham News entitled "Why Southern Landowners Hate Endangered Species" be placed into the RECORD. This article, written by Mr. Jonathan Tolman of the Alexis de Tocqueville Institute, excellently capsulizes the unique problems facing the Southeast with respect to the conflict between private property owners and the Endangered Species Act.

WHY SOUTHERN LANDOWNERS HATE ENDANGERED SPECIES

(By Jonathan Tolman)

If you think the spotted owl debate in the Pacific Northwest has been a bruising, drawn-out political fight, wait until you see what's brewing in the South.

There isn't just one endangered animal in the forests of the Southeast, there are dozens. For example, every county in Alabama is considered habitat to some endangered species. Some counties even have their very own endangered species which are found nowhere else, like Jefferson County, home to the watercress darter, an endangered minnow.

SO DIFFICULT

One of the main reasons saving Southern endangered species will be so difficult is that the Endangered Species Act fails when it comes to protecting endangered species on private land. And unlike the Pacific Northwest, where the federal government owns 53 percent of the land, in the Southeast the feds own a mere 7 percent.

The Endangered Species Act ignores a landowner's property rights and the economic stake he holds in his property. Because of this deficiency, the act often forces landowners to choose between jobs (their own) and the environment.

Interior Secretary Bruce Babbitt has been doing his best to defuse these private property conflicts. In November, Babbitt signed a deal with International Paper to set aside 4,500 acres in Alabama for the threatened Red Hills salamander. Last April, he signed a deal with Georgia Pacific to set aside 50,000 acres around the Southeast for the red cockaded woodpecker.

In the case of the red cockaded woodpecker, the federal government was effectively given a 50,000-acre wildlife refuge for the bird. But these huge corporate donations may not be enough to save the woodpecker. Georgia Pacific land accounts for only about 20 percent of the woodpeckers that live on private land. Where is the other 80 percent going to come from? What about the Red Hills salamanders that don't live on International Paper's land?

If genuine conservation for endangered species comes at all, it will have to come from small landowners. And there are hundreds of thousands of them throughout the Southeast. For example, there are more than 100,000 private forest landowners in Louisiana alone, owning two-thirds of all forest land in the state. The average landowner owns about 140 acres. If a red cockaded wood-

pecker is found on his property, the landowner has a real problem.

According to the U.S. Fish and Wildlife Service, the average territory for red cockaded woodpeckers is 200 acres. Under the Endangered Species Act virtually the entire acreage of the average landowner would be required as habitat for the woodpecker. A landowner couldn't cut down his trees, he couldn't develop his land, he couldn't sell his land, he couldn't even use his land as collateral for a loan. By just about any definition, his land has been taken.

Even though the landowner's property is effectively taken, the federal government rarely compensates. This means the individual landowner is forced to bear the costs of providing habitat for an endangered species while the public accrues all of the supposed benefits. Not only is this constitutionally dubious, it often has the additional effect of turning private landowners against endangered species. This is a pattern that has been growing more and more common as landowners realize the impact of having an endangered species on their property.

In some cases landowners try to discourage endangered species from taking up residence on their property. In 1990, Hillwood Development, a company owned by billionaire Ross Perot, did just that. Concerned that the golden-cheeked warbler, an endangered songbird, would take up residence on its 333 acres outside Austin, Texas, the company exploited a legal loophole to change the habitat. While the bird was wintering in Central America, Hillwood Development hired several dozen migrant workers, equipped them with chainsaws and instructed them to cut down trees. Few if any golden-cheeked warblers have been seen on the property since then.

A less dramatic example is occurring in central Louisiana. A private landowner owns a large estate which is home to several groups of red cockaded woodpeckers. When the owner found out the real obligations under the Endangered Species Act, he changed his management plan. Red cockaded woodpeckers prefer to nest in longleaf pine trees older than 60 years. In order to prevent the woodpeckers from expanding onto the rest of his property, the landowner has been converting the older longleaf pine into younger loblolly pine.

Then there is the current controversy over listing the Alabama sturgeon. The entire Alabama congressional delegation is opposed to listing the sturgeon. Said Sen. Richard Shelby, "The people of Alabama who have worked their entire life on the Alabama and Tombigbee river systems stand to lose their livelihood if this animal is listed as an endangered species." According to Sen. Shelby, preliminary economic estimates predict that the Alabama economy would lose \$2 billion a year if the fish is listed as endangered.

The Alabama congressional delegation is not the only state delegation to take exception to an endangered species. In 1978, the Tellico Dam project on the Little Tennessee River was halted by the presence of a threatened minnow, the snail darter. The Tennessee delegation then pushed through legislation which specifically exempted the Tellico Dam from the Endangered Species Act. Even Vice President Al Gore, then a congressman, voted for the legislation and against the snail darter.

In extreme cases people will even kill endangered species to protect their property rights. In 1987, two Florida land developers were indicted and convicted for killing red cockaded woodpeckers. In the Pacific Northwest this attitude has its own slogan: "shoot, shovel and shut up."

TOUGH CHOICE

Repeatedly, the current Endangered Species Act is forcing citizens to choose between their economic survival and the survival of a species. As long as they are forced to make this decision, endangered species will lose. Dr. Eugene Lapointe, who directed the United Nations' endangered species program for eight years, said it best: "Without the local populations' constant involvement, no genuine conservation efforts will ever succeed."

If the Endangered Species Act is to be a successful conservation effort it must be rewritten so local populations become participants and not opponents to the survival of endangered species.●

WATR—ITS 60TH ANNIVERSARY

● Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to WATR, a family-owned radio station in Waterbury, CT, which has broadcast history-in-the-making, entertainment and public affairs programs during the past 60 years. Today, WATR celebrates its 60th anniversary broadcasting to Connecticut listeners. On a quiet June day in 1934, the airwaves in Waterbury sizzled and crackled when WATR signed on for the first broadcast to listeners in the Greater Waterbury area and Naugatuck Valley. Over the past 60 years this station has successfully adapted to the changing needs of the thousands of listeners who tune in every day, every hour.

During the 1930's WATR broadcast President Roosevelt's fireside chats, and the radio dramas which many Connecticut families tuned to each night after dinner. The music of the big band era, rock and roll, jazz, and country have all reached listeners over the air waves from Broadcast Lane overlooking Waterbury. Thousands of people first learned about the landing on Normandy, the bombing of Pearl Harbor, President Kennedy's assassination, and the landing on the Moon listening to network and local newscasts on WATR. And today, WATR continues this dedication to news and to keeping listeners informed of events in the community, the State, the Nation and the world. Talk shows broadcast on WATR give listeners an opportunity to speak out on the issues that concern them. Up-to-the-minute traffic reports keep commuters on Interstate 84 and Highway 8 informed of hazards and commuter problems as they merge into this busy traffic area.

Mr. President, I congratulate not only the people who work at WATR, but the loyal listeners who tune in every day. And not only the employees and listeners of 1994, but those who throughout the past 60 years have helped WATR reach this broadcast anniversary.

WATR has a formula for success which is to be admired. I believe the difference between WATR and those stations which have come and gone over the past 60 years are the people

who make up WATR. People who are dedicated to their listeners and to the community. Over the years, the WATR staff have volunteered hundreds of hours to raise funds for nonprofit agencies and assist in cultural and community events. Every year, the Sunshine Fund campaign raises money and other donations for area families, and every year it is the people of WATR who make this campaign a success.

I applaud WATR for the past 21,900 days of hard work, dedication, and a commitment to broadcasting news and entertainment to the Greater Waterbury community. No one knows what changes will greet WATR in the next 60 years, but I know WATR will meet them and continue this commitment of service to the families of Connecticut.●

BAL TIC FREEDOM DAY

● Mr. RIEGLE. Mr. President, the date of June 14 holds special meaning for the people of Estonia, Latvia, and Lithuania. On that day in 1941, Soviet troops began in earnest their illegal occupation of their countries by deporting tens of thousands of Baltic citizens to forced labor and concentration camps in Siberia. For the people of the Baltic States, June 14, 1941 ushered in one of the darkest periods in their history—a period which finally ended half a century later with the collapse of the Soviet Union.

During the difficult years of Soviet occupation, the Baltic people were brutalized and their land violated. Baltic-Americans, and others who cared about the fate of Lithuanians, Latvians, and Estonians, used the anniversary of the June 14th deportations to focus the world's attention on the Baltic peoples' tragic fate and to reaffirm United States support in their struggle for freedom.

In 1982, with the help of the Baltic-American community, I introduce one of the first Senate resolutions officially designating June 14 as "Baltic Freedom Day." Unanimous adoption of that resolution, which symbolized America's enduring solidarity with the Baltic peoples' struggle for freedom, was repeated each succeeding year, until Baltic independence was restored. Their success set in motion the independence fervor which quickly spread through the republics of the former Soviet Union.

Today, the anniversary of this infamous date provides an opportunity both to honor the Baltic men, women, and children who were victimized by their Soviet oppressors, and to recommit ourselves to supporting the Baltic peoples' arduous task of rebuilding their nations and their spirits.

Mr. President, the task facing the Baltic people today is an overwhelming one. The urgency of achieving the withdrawal of the remaining Russian troops from their soil and cleaning up

their environment, ruined by decades of Soviet abuse, are only two of the most glaring matters to be resolved. In addition, the hardships imposed by the difficult transition to free market economies, coupled with the continuing tensions between Balts and ethnic Russians living within their borders, present special challenges to the citizens of these new independent nations.

The resilience of the Baltic people, evidenced by their peaceful and disciplined 50-year struggle against their Soviet occupiers, is nothing less than remarkable. They deserve our deepest admiration and respect. And so, I urge my colleagues to continue to be vigilant with respect to the Baltic nations, and to continue to lend them the critical support they need as they move toward becoming fully sovereign and prosperous once again.●

URBAN YOUTH ACTION: MAKING A DIFFERENCE IN PITTSBURGH

● Mr. WOFFORD. Mr. President, I rise today to recognize Urban Youth Action, Inc., which today is celebrating 28 years of outstanding service to Allegheny County.

Their celebration tonight, "We Are the World, We Are the Children," is in keeping with the general way all of their good programs and projects operate: youth-led and youth-designed.

Urban Youth Action, Inc. teaches students, age 13-19, the values of hard work, self-discipline, service, and education. UYA teaches youngsters how to conduct job searches, provides work experience and career exposure placements, imparts life skills, matches youngsters with dedicated professionals who serve as mentors, and encourages higher education.

Too often in our society, young people are viewed as dangers, as problems, as needing to be fixed. UYA has for 28 years been turning that around by empowering a diverse group of youth to make a difference in their own lives and their own community. For 28 years, UYA has been showing that youth are resources, talent ready to be tapped. For 28 years, UYA has been giving flesh to the idea that civil rights must be balanced by civic responsibilities.

I salute the staff and board members of UYA—especially Ms. Linda Brant and Mr. Will Thompkins—and perhaps most importantly, the students.●

NATIONAL PARKINSON'S DISEASE AWARENESS WEEK

Mr. FORD. Now, Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 175, designating "National Parkinson's Awareness Week"; that the Senate proceed to its immediate consideration; that the resolution be deemed

read three times, passed, and the motion to reconsider be laid upon the table; that the preamble be agreed to and any statements appear in the RECORD as if read.

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

So the joint resolution was deemed to have been read three times and passed.

The preamble was deemed to have been agreed to.

The joint resolution (S.J. Res. 175), with its preamble, is as follows:

S.J. RES. 175

Whereas Parkinson's Disease is a chronic neurologic, crippling disorder of the nervous system;

Whereas Parkinson's Disease affects more than 1,500,000 people of all ages in the United States and millions more around the world;

Whereas no cure is available at this time, but extensive research in laboratories throughout the world has led to improved treatment in alleviating symptoms while searching for a cure; and

Whereas Parkinson support groups, chapters, and information and referral centers across America are dedicated to developing understanding of this disease and community awareness of Parkinson's Disease by promoting discussions, mutual sharing, and support among patients and family members and by sponsoring educational and medical symposiums that help stimulate research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 13, is hereby designated as "National Parkinson's Disease Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

BOARD OF VETERANS' APPEALS ADMINISTRATIVE PROCEDURES IMPROVEMENT ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1904) a bill to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1904) entitled "An Act to amend title 38, United States Code, to improve the organization and procedures of the Board of Veterans' Appeals", 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 "Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994".

SEC. 2. NUMBER OF MEMBERS OF BOARD OF VETERANS' APPEALS.

Section 7101(a) of title 38, United States Code, is amended by striking out "(not more than 65)".

SEC. 3. ETHICAL AND LEGAL LIMITATIONS ON CHAIRMAN.

Section 7101(b)(1) of title 38 United States Code, is amended by inserting after the first sen-

tence the following new sentence: "The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States Court of Veterans Appeals."

SEC. 4. ACTING AND TEMPORARY MEMBERS OF BOARD OF VETERANS' APPEALS.

(a) IN GENERAL.—Subsection (c) of section 7101 of title 38, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

"(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

"(C) An individual may not serve as an acting member of the Board for more than 270 days during any one-year period.

"(D) At no time may the number of acting members exceed 20 percent of the total of the number of Board members and acting Board members combined."

(2) by striking out paragraph (2);

(3) by redesignating paragraph (3) as paragraph (2); and

(4) in paragraph (2), as so redesignated, by striking out "the number of temporary Board members" and all that follows through the period at the end and inserting in lieu thereof "the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made."

(b) CONFORMING AMENDMENTS.—(1) Subsection (e) of such section is amended by striking out "a temporary or" and inserting in lieu thereof "an".

(2) Subsection (d)(3)(B) of such section is amended by striking "section 7103(d)" and inserting in lieu thereof "section 7101(a)".

SEC. 5. CHAIRMAN'S ANNUAL REPORT ON BOARD ACTIVITIES.

Section 7101(d)(2) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

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

"(F) the number of employees of the Department designated under subsection (c)(1) to serve as acting members of the Board during that year and the number of cases in which each such member participated during that year."

SEC. 6. DECISIONS BY THE BOARD.

(a) ACTION BY BVA.—Sections 7102 and 7103 of title 38, United States Code, are amended to read as follows:

"§7102. Assignment of members of Board

"(a) A proceeding instituted before the Board may be assigned to an individual member of the Board or to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel.

"(b) A proceeding may not be assigned to the Chairman as an individual member. The Chairman may participate in a proceeding assigned to a panel or in a reconsideration assigned to a panel of members.

"§7103. Reconsideration; correction of obvious errors

"(a) The decision of the Board determining a matter under section 7102 of this title is final unless the Chairman orders reconsideration of the decision in accordance with subsection (b). Such an order may be made on the Chairman's initiative or upon motion of the claimant.

"(b)(1) Upon the order of the Chairman for reconsideration of the decision in a case, the case shall be referred—

"(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board; or

"(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

"(2) A panel referred to in paragraph (1) may not include the member, or any member of the panel, that made the decision subject to reconsideration.

"(3) A panel reconsidering a case under this subsection shall render its decision after reviewing the entire record before the Board. The decision of the panel shall be made by a majority vote of the members of the panel. The decision of the panel shall constitute the final decision of the Board.

"(c) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7103 and inserting in lieu thereof the following:

"7103. Reconsideration; correction of obvious errors."

SEC. 7. PROCEDURES RELATING TO APPEALS.

(a) IN GENERAL.—(1) Section 7107 of title 38, United States Code, is amended to read as follows:

"§7107. Appeals: dockets; hearings

"(a)(1) Each case received pursuant to application for review on appeal shall be considered and decided in regular order according to its place upon the docket.

"(2) A case referred to in paragraph (1) may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims or for other sufficient cause shown.

"(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

"(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall, except in the case of a reconsideration of a decision under section 7103 of this title, participate in making the final determination of the claim.

"(d)(1) An appellant may request that a hearing before the Board be held at its principal location or at a facility of the Department located within the area served by a regional office of the Department.

"(2) A hearing to be held within an area served by a regional office of the Department shall (except as provided in paragraph (3)) be scheduled to be held in the order in which requests for hearings within that area are received by the Department.

"(3) In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under paragraph (2).

"(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

"(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d). Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected."

(2) The item relating to section 7107 in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"7107. Appeals: dockets; hearings."

(b) CONFORMING AMENDMENTS.—(1) Section 7104(a) of such title is amended by striking out the third sentence.

(2) Section 7110 of such title is repealed.

(3) The table of sections at the beginning of chapter 71 of such title is amended by striking out the item relating to section 7110.

SEC. 8. CROSS-REFERENCE CORRECTION.

Section 7104(a) of title 38, United States Code, is amended by striking out "211(a)" and inserting in lieu thereof "511(a)".

SEC. 9. REVISION TO INCOME VERIFICATION REQUIREMENTS.

(a) PARENTS DIC.—Section 1315(e) of title 38, United States Code, is amended—

(1) in the first sentence—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in the second sentence—

(A) by striking out "file with the Secretary a revised report" and inserting in lieu thereof "notify the Secretary"; and

(B) by striking out "the estimated".

(b) PENSION.—Section 1506 of such title is amended—

(1) in paragraph (2)—

(A) by striking out "shall" and inserting in lieu thereof "may"; and

(B) by striking out "each year" and inserting in lieu thereof "for a calendar year"; and

(2) in paragraph (3)—

(A) by striking out "file a revised report" and inserting in lieu thereof "notify the Secretary";

(B) by striking out "estimated" each place it appears; and

(C) by striking out "such applicant's or recipient's estimate of".

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted that the Senate is considering S. 1904, a bill to improve the organization and procedures of the Board of Veterans' Appeals [BVA], as passed with amendments by the House of Representatives. I urge my colleagues to give their unanimous support to this bill, which would

amend certain provisions of title 38, United States Code, affecting the operation and procedures of the Board of Veterans' Appeals.

Mr. President, the Senate passed this measure on April 21, 1994. My statement in support of Senate passage appears in the RECORD on that day, beginning on page S4758. On November 22, 1993, the House passed H.R. 3400, which included provisions substantively similar to the provisions in S. 1904. The House and Senate Committees on Veterans' Affairs reached an agreement with respect to these provisions, reflected in this amendment to S. 1904. I am pleased to note that all of the provisions that were contained in the Senate-passed version of the bill are included in the compromise.

Mr. President, as I have said a number of times in recent months, the VA adjudication system currently is in a crisis situation, both at the regional office level and at the BVA. Put simply, the system is completely broken. If we do not begin to address the existing problems now, the situation promises only to worsen.

Mr. President, my primary goal as chairman of the Committee on Veterans' Affairs is to ensure that all veterans and their family members who look to VA for assistance receive quality services from VA—no matter what benefit they seek. VA exists solely to serve this Nation's veterans and their families. We in Congress are obligated to make sure the Department fulfills this mission in every respect.

At the heart of VA's mission is fair, efficient, and timely adjudication of benefit claims. Timeliness is simply vital. Currently, however, VA is not living up to this aspect of its responsibilities.

Mr. President, a veteran currently waits over 200 days for a decision on an original compensation claim, and about 2 years for a decision on appeal. That is unconscionable.

Mr. President, BVA's current problems were caused by a number of factors and will require long-term, fundamental changes. However, there are certain immediate changes Congress can institute that would allow the Board to begin to reduce its present backlog and improve its decisionmaking timeliness. The pending measure would authorize some of those changes and would begin to address some of the present problems at the VA appellate level.

I am committed to finding permanent solutions to the problems faced by BVA, but in the interim, the measures in this bill offer some immediate, short-term solutions to the ever-increasing average response time at the Board. Some of these provisions were specifically requested by the Secretary of Veterans Affairs and the Chairman of BVA. VA indicates that these provisions will allow BVA to increase its

productivity and thereby immediately begin to reduce the time it currently takes the Board to make a decision on appeal.

Mr. President, section 2 of this bill would amend section 7101(a) of title 38 to remove the 65-member limitation on the number of members that may be appointed to the Board. Removing this limitation means that the size of the Board may increase as necessary, restrained only by the appropriation of funds.

Section 3 of this bill would provide that the Chairman of the Board is subject to the same ethical and legal limitations and restrictions regarding involvement in political activities as judges on the United States Court of Veterans Appeals. These limitations and restrictions are found in Canon 7—A Judge Should Refrain from Political Activity—of the Codes of Conduct for Judges and Judicial Employees, issued by the Judicial Conference of the United States. Current law places no such restrictions on the Chairman specifically with respect to political activities.

Mr. President, section 4 of this measure would remove the current provision giving the Chairman of BVA authority to appoint temporary Board members and move the authority to appoint acting members from current section 7102 to section 7101, while keeping intact the present limitation on the amount of time an individual can serve as an acting member. However, the provision would specifically allow acting members of the Board to complete work on any pending cases, notwithstanding that time limitation.

The Board has informed the Committee that the Chairman does not use the existing authority to appoint temporary members. Because the Chairman has the authority under current law to appoint acting members, the appointment of temporary members apparently is unnecessary. Removing this authority would simply amend the law to conform with current practice.

Section 5 of this bill would require the Chairman to include in the annual report on Board activities, mandated by section 7101(d), information concerning acting members appointed during the year.

Section 6 of this legislation would amend section 7102 of title 38 to allow the Chairman of BVA to assign an appeal to a single member or to a panel of members consisting of at least three members. Under current law, appeals have to be assigned to a panel of at least three members. According to VA, the authority to issue single-member decisions would increase Board productivity by 27 percent. In turn, this increase in productivity would contribute to a reduction in the time it takes BVA to make a decision on appeal. The Board has estimated that if this authority were to be fully effective in

June 1994, the average response time would be reduced to 600 days by the end of May 1995, instead of almost 850 days, which BVA estimates it would be if the requirement of three-member decisions remains in effect.

Amended section 7102 also would provide that reconsideration of a case must be assigned to a panel of members if the original appeal was decided by a single member, and to an enlarged panel of members if the original appeal was decided by a panel. In either case, the panel carrying out the reconsideration could not include any Board member who was involved in deciding the original appeal.

Section 6 would allow the Chairman to participate in a proceeding on appeal or on reconsideration, but only as a member of a panel, and not as an individual member.

Section 7 would allow the Board to use electronic or other technological means to conduct hearings from VA's central office in Washington, D.C., while the veteran is located in a local regional office or other VA facility. Section 7 also would provide that if an appellant is seriously ill or is under severe financial hardship, the hearing may be held earlier than it otherwise would be. The provisions in this section are intended to help move the hearing process more easily and quickly.

Mr. President, section 9 of this legislation would amend section 1506 of title 38 to eliminate the statutory requirement that pension recipients file income reports. Under current law, VA must require income reports for purposes of pension eligibility. This measure would give VA discretionary authority to require the submission of income questionnaires as it deems necessary. Further, the bill would also amend section 1506 to provide that when there is any change in income or in the value of the corpus of the individual's estate, the individual would be required to notify VA of the change, rather than file a revised income report as currently required.

Section 9 also includes a provision that would eliminate the statutory requirement for income reports for purposes of eligibility for parents' DIC, likewise giving VA discretionary authority to require the submission of income reports by recipients of this needs-based benefit.

Mr. President, VA has computer matching programs with the Internal Revenue Service [IRS] and the Social Security Administration [SSA] for income verification purposes, therefore, an income report is no longer necessary in every case. Allowing VA this discretionary authority would help to free up significant resources which are used to request and process these reports.

Mr. President, this bill would address three provisions requested by Secretary Brown to alleviate the Board's

backlog. Specifically, in a February 10, 1994, letter, Secretary Brown asked for my assistance in the enactment of measures that would (1) remove the limit on the number of Board members, (2) allow the Chairman of BVA to assign appeals to one member of the Board for disposition, and (3) remove the limitation on the time an acting member may serve.

This bill includes the first two of the statutory provisions requested by the Secretary, as well as a provision that addresses the concerns that led to his request for the third provision.

Mr. President, the amendments in S. 1904 are vital. Passage of this legislation would represent the beginning of an improved appeals system, the effects of which veterans would start to feel immediately. Our Nation's veterans have a fundamental right to efficient processing of their claims for benefits—benefits they earned through their military service. I stand committed to working over the long term to ensure this right, but in the meantime, I strongly believe the provisions in this bill are a step in the right direction. I urge all of my Senate colleagues to support this bill.

Mr. President, I want to express my sincere gratitude and appreciation to the distinguished ranking Republican member of the Senate Committee, Mr. MURKOWSKI, all other members of this Committee, the chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, and the members of his committee for the cooperative effort to enact these measures quickly.

Mr. President, I urge the Senate to give its unanimous approval to this measure so that it can go to the President for his signature.

Mr. President, I ask unanimous consent that a detailed explanatory statement prepared by the two Veterans' Affairs Committees that explains the provisions of the compromise appear in the RECORD.

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

EXPLANATORY STATEMENT ON S. 1904

S. 1904 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These are Subtitle D of Title XII of H.R. 3400, which the House passed on November 22, 1993 (hereinafter referred to as "House bill"), and S. 1904, which the Senate passed on April 21, 1994 (hereinafter referred to as "Senate bill").

The Committees on Veterans' Affairs of the Senate and House of Representatives have prepared the following explanation of S. 1904 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned bills are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

NUMBER OF MEMBERS OF BOARD OF VETERANS' APPEALS

Current law: Section 7101(a) of title 38, United States Code, specifies that the Board of Veterans' Appeals may be comprised of no more than 65 members in addition to the Chairman and Vice Chairman.

House bill: Section 12301(a) of the House bill would revise and restate the provisions of section 7101(a) of title 38. As part of that revision, section 12301(a) would eliminate the 65-member limitation on the number of members who can serve on the Board of Veterans' Appeals in addition to the Chairman and Vice Chairman. In addition, the House bill would codify the position of Deputy Vice Chairman of the Board, to be designated by the Chairman.

Senate bill: Section 1(a) would delete the language in section 7101(a) which provides that the number of Board members, in addition to the Chairman and Vice Chairman, may not exceed 65.

Compromise agreement: Section 2 follows the Senate bill.

ETHICAL AND LEGAL LIMITATIONS OF CHAIRMAN

Current law: Provisions relating to the Chairman of the Board of Veterans' Appeals (hereinafter referred to as "Chairman") are found in section 7101 of title 38. There are no provision in current law that place ethical or legal limitations or restrictions on the Chairman specifically with respect to political activities.

House bill: Section 12301(b) would provide that the Chairman of the Board is subject to the same ethical and legal limitations and restrictions regarding involvement in political activities as judges on the United States Court of Veterans Appeals. These limitations and restrictions are found in Canon 7—A Judge Should Refrain from Political Activity—of the Codes of Conduct for Judges and Judicial Employees, issued by the Judicial Conference of the United States.

Senate bill: No provision.

Compromise agreement: Section 3 follows the House bill.

ACTING AND TEMPORARY MEMBERS OF THE BOARD OF VETERANS' APPEALS

Current law: Section 7102(a)(2)(A) authorizes the Chairman to designate an employee of the Department of Veterans Affairs (hereinafter referred to as "Department" or "VA") to serve as an acting member on a section of the Board, for a period not to exceed 90 days. The Chairman may designate an acting member to serve on a section if the section is composed of fewer than three members due to the absence of a member, a vacancy on the Board, or the inability of a member assigned to the section to serve on that section. Under section 7102(a)(2)(B), an acting member may not serve for more than 270 days in any 12-month period.

Section 7101(c) authorizes the Chairman to designate Department employees to serve as temporary members for a period of not more than 1 year. Temporary members may be designated when there are fewer than 65 members of the board and may not serve for more than 24 months during any 48-month period.

House bill: As part of a revision of section 7101, section 12301(d) of the House bill would remove the limitation on the period of time acting members are allowed to serve and would remove the authority of the Chairman to designate temporary members.

Senate bill: Section 1(b) would amend section 7101(c) to eliminate the authority to designate temporary members. The provision authorizing the Chairman to designate acting members would be amended and moved

from section 7102 to 7101. The new section 7101 provision would be substantively identical to the current provision in section 7102 governing acting members, limiting such service to 90 days at a time and a total of no more than 270 days during any 1-year period. The new section 7101 would add a provision to permit an acting member to continue to serve in that capacity, notwithstanding the time limitations, with respect to any proceedings for which the acting member was designated.

Compromise agreement: Section 4 follows the Senate bill, with an amendment limiting the number of acting members who can serve at any time to 20 percent of the total number of regular and acting Board members combined.

CHAIRMAN'S ANNUAL REPORT OF BOARD ACTIVITIES

Current law: Section 529 of title 38 requires the Secretary of Veterans Affairs (hereinafter referred to as "Secretary") to submit an annual report to Congress including a financial accounting, a description of all work accomplished by the Department, and the activities of the Department during that fiscal year. Section 7101(c)(3) requires the secretary to include in this report the number of temporary and acting Board members designated during the fiscal year covered by the report.

Section 7101(d) requires the Chairman to prepare a report, to be submitted with the Secretary's budget request to Congress, at the end of each fiscal year on the activities of the Board during that year and the projected activities for the fiscal year in which the report is prepared and the following fiscal year. Section 7101(d) does not require the Chairman to include any information concerning acting or temporary members designated during the year covered in the report.

House bill: Section 12301(d) would remove the requirement that the Secretary include information concerning temporary members in the annual report to Congress, to conform with the removal of the authority to designate temporary members. Section 12301(e) would require that the Chairman's annual report include the names of acting Board members designated during the year and the number of cases in which each acting member participated.

Senate bill: Section 1(b) would remove the requirement that the Secretary include information concerning temporary members in the annual report to Congress. Section 1(c) would require the Chairman's annual report to include only the number of acting members designated during the year and the number of cases in which each acting member participated.

Compromise agreement: Section 5 follows the Senate bill.

DECISIONS BY THE BOARD

Current law: Section 7102(a)(1) authorizes the Chairman to divide the board into sections of three members and assign members to the sections.

Section 7102(c) provides that the Chairman will assign proceedings to sections of the Board. A section will make a decision concerning any proceeding assigned to the section, including any decision regarding motions filed in connection with such a proceeding, and make a report of the section's decision, which will be the final disposition of the proceeding.

Section 7103(a) states that a decision of the majority of the section will be the decision of the section, which is final unless the Chairman orders reconsideration of the case.

House bill: Section 12302(a) would amend section 7102 to authorize assignment of a proceeding to an individual Board member or to a panel of Board members, other than the Chairman, who would render a decision on the proceeding and make a report on the determination. Section 12302(a) would provide that decisions of a panel are to be made by a majority of the members of the panel.

Senate bill: Section 1(d) is substantively similar to section 12302(a) of the House bill, except that it would specify that a panel must consist of at least three members and it would not exclude the Chairman from participating in a decision on a proceeding, either individually or on a panel.

Compromise agreement: Section 6 would authorize assignment of a proceeding to an individual Board member or to a panel consisting of at least three members. The Chairman would be permitted to participate in a proceeding or reconsideration of a decision, but only as a member of a panel.

RECONSIDERATION

Current law: Section 7103(b) provides that when the Chairman orders reconsideration of a case, the decision on reconsideration is made by an expanded section of the Board. A decision of the majority of the expanded section is final.

House bill: Section 12302(a) would require that after the Chairman orders reconsideration of a case, the matter must be referred to a panel of at least three members where the original decision was rendered by an individual member, and to an enlarged panel where the original decision on appeal was rendered by a panel of members. This section would prohibit the original decisionmakers from participating in the reconsideration. The decision of a majority of the members of the reconsideration panel would be final.

Senate bill: Section 1(d) is substantively identical to the House bill.

Compromise agreement: Section 6 of the compromise agreement contains this provision.

HEARINGS

Current law: Section 7102(b) provides that a hearing docket will be maintained and that hearings will be held by the member or members designated by the Chairman, who must be a member or members of the section which will make the final decision in the case. Section 7104(a) states that the Board must afford a claimant the opportunity for a hearing before a decision is rendered in the case. Section 7110 provides that a claimant may request a hearing before a traveling section of the Board, to be held at a location within the area served by a regional office of the Department. Hearings before a traveling section of the Board are scheduled in the order in which the requests for such hearings in a particular area are received by the Department. Section 7107 governs the docketing of appeals.

House bill: Section 12304 would amend the heading of section 7110 to reflect that it contains all provisions governing hearings. This section would make it clear that an appellant may request a hearing at the Board's principal location in Washington, D.C., or at a regional office of the Department. Section 12304 also would add authority for the Board to schedule a hearing at a time earlier than it would otherwise be held, if the claimant is seriously ill or is under severe financial hardship. This section also would provide authority for the Secretary to provide facilities and equipment to the Board for purposes of allowing an appellant located at a facility in an area served by a regional office to par-

ticipate in a hearing with a Board member who is at the Board's principal location, through voice transmission or picture and voice transmission, by electronic or other means. This section also would require, however, that the appellant be given the opportunity for a hearing in Washington, D.C., or before a traveling member of the Board, if the appellant chooses either method over a hearing through the use of electronic means.

Senate bill: With respect to hearings, section 1(e) contains substantively identical provisions as in the House bill. However, section 1(e) would repeal section 7110 and would move the hearing provisions to section 7107, thereby combining the provisions governing the docketing of appeals and the scheduling of hearings into one section. Provisions of existing section 7107 would remain substantively the same. Provisions relating to hearings in existing sections 7102, 7104, and 7110 would be included in the amended section 7107. The Senate bill would provide that hearings held before a traveling member or members of the Board would be held at a location within the area served by a regional office of the Department, not necessarily at the regional office.

Compromise agreement: Section 7 follows the Senate bill, except that with respect to hearings held before a traveling member or members of the Board, it would specify that such hearings would be held at a facility of the Department in the area served by a regional office of the Department. In addition, section 7 would add an exception to the requirement that the hearing be held before a member or members of section that will make the final determination, to exclude cases in which the Chairman orders reconsideration. Section 7 also would remove a redundant provision in 7104(a), which states that the Board will make a decision in a case only after the appellant has been given the opportunity for a hearing. Under section 7 of the bill, that requirement would appear in amended section 7107.

ANNUAL INCOME QUESTIONNAIRES FOR RECIPIENTS OF PENSION AND PARENTS' DEPENDENCY AND INDEMNITY COMPENSATION

Current law: Section 1506 of title 38 directs VA to require annual income reports for purposes of pension eligibility. Any applicant for or recipient of VA pension must file with VA a report containing information on the individual's annual income received during the previous year and on the corpus of the individual's estate at the end of the year, as well as the income and estate of any spouse or dependent child. The report must also contain an estimate of the individual's income for the current year and any expected increase in the value of the corpus of his or her estate.

For a surviving child, in addition to the above information, the report must include an estimate of the current year's annual income and any expected increase in the value of the corpus of the estate of any person who is legally responsible for the support of the child and with whom the child is residing.

Section 1506 also requires that any applicant or recipient of pension, or any person who is legally responsible for the support of a surviving child applying for or receiving pension, must promptly file a revised report whenever there is a material change in estimated annual income or in the estimated value of the corpus of that individual's estate.

Section 1315(e) directs VA to require an annual income report as a condition of an award or of continuation of parents' dependency and indemnity compensation (DIC), except in the case of a parent who has reached

the age of 72 and has been receiving DIC during 2 consecutive calendar years. The report must show the total income expected in that year and the total income received in the previous year. The recipient must file a revised report whenever there is a material change in estimated annual income.

House bill: Section 12305 would amend section 1506 to eliminate the statutory requirement for income reports for purposes of pension eligibility, thereby giving VA discretionary authority to require the submission of income questionnaires. Section 12305 would also amend section 1506 to provide that when there is any change in income or in the value of the corpus of the individual's estate, the individual would be required to notify VA of the change, rather than file a revised income report.

Senate bill: No provision.

Compromise agreement: Section 9 includes the provision in the House bill, with a minor technical amendment.

Section 9 of the compromise agreement also includes a provision that would eliminate the statutory requirement for income reports for purposes of eligibility for parents' DIC, thereby giving VA discretionary authority to require the submission of an income report.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Thursday, June 16; that following the prayer, the Journal of proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that, immediately thereafter, the Senate proceed in executive session to consider the nomination of Lauri Fitz-Pegado, as provided under the conditions and limitations of a previous

unanimous consent agreement; that upon disposition of the Fitz-Pegado nomination, either by confirmation or recommittal, the Senate then return to legislative session and resume consideration of Calendar 282, S. 1491, the Airport Improvement Act.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 10:29 p.m., recessed until Thursday, June 16, 1994, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 15, 1994:

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

CHARLES H. DOLAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1994. CHARLES H. DOLAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1997. THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

ROBERT M. PARKER, OF TEXAS, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT. DIANA GRIBBON MOTZ, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990. DENISE PAGE HOOD, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN. RICHARD A. PAEZ, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990. PAUL L. FRIEDMAN, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA. GLADYS KESSLER, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

EMMET G. SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA. RICARDO M. URBINA, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA. WILLIAM F. DOWNES, OF WYOMING, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF WYOMING, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

IN THE NAVY

THE FOLLOWING-NAMED CAPTAINS IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER To be rear admiral (lower half)

- CAPT. TIMOTHY R. BEARD
CAPT. DAVID L. BREWER II
CAPT. STANLEY W. BRYANT
CAPT. TONEY M. BUOCHI
CAPT. ROBERT S. COLI
CAPT. WILLIAM W. COPELAND, JR.
CAPT. JOHN W. CRAINE, JR.
CAPT. JAMES B. FERGUSON II
CAPT. EDMUND P. GIAMBASTIANI, JR.
CAPT. JOHN J. GROSSENBACHER
CAPT. JAMES B. HINKLE
CAPT. GORDON S. HOLDER
CAPT. RICHARD G. KIRKLAND
CAPT. PETER A.C. LONG
CAPT. MARTIN J. MAYER
CAPT. BARBARA E. MCGANN
CAPT. PATRICK D. MONEYMAKER
CAPT. CHARLES W. MOORE, JR.
CAPT. JOHN B. NATHMAN
CAPT. WILLIAM L. PUTNAM
CAPT. THOMAS R. RICHARDS
CAPT. DAVID P. SARGENT, JR.
CAPT. WILLIAM R. SCHMIDT
CAPT. DONALD A. WEISS

ENGINEERING DUTY OFFICER To be rear admiral (lower half)

- CAPT. JOHN A. GAUSS
CAPT. THOMAS J. PORTER

AEROSPACE ENGINEERING DUTY OFFICER To be rear admiral (lower half)

- CAPT. ROBERT W. SMITH

SPECIAL DUTY OFFICER (CRYPTOLOGY) To be rear admiral (lower half)

- CAPT. HARRY W. WHITON

SPECIAL DUTY OFFICER (INTELLIGENCE) To be rear admiral (lower half)

- CAPT. LOWELL E. JACOBY

SPECIAL DUTY OFFICER (OCEANOGRAPHY) To be rear admiral (lower half)

- CAPT. PAUL G. GAFFNEY II