HOUSE OF REPRESENTATIVES—*Wednesday, October 2, 1996*

The House met at 2 p.m. and was called to order by the Speaker pro tempore [Mr. WALKER].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 2, 1996.

I hereby designate the Honorable ROBERT S. WALKER to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray using the words of the 67th Psalm:

"May God be merciful to us and bless us, show us the light of his countenance and come to us.

"Let your ways be known upon earth, your saving health among all nations.

"Let the peoples praise you, O God; let all the peoples praise you.

"Let the nations be glad and sing for joy, for you judge the nations upon earth.

"Let the peoples praise you, O God; let all the peoples praise you.

"The earth has brought forth her increase; may God, our own God, give us his blessing.

"May God give us his blessing, and may all the ends of the earth stand in awe of him."

Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York [Mr. SOLOMON] come forward and lead the House in the Pledge of Allegiance.

Mr. SOLOMON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mrs. McDevitt, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 198. Joint Resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996.

The message also announced that the Senate has passed a bill and a resolution of the following titles in which the concurrence of the House is requested:

S. 2183. An act to make technical corrections to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; and

S. Res. 309. Resolution that the House of Representatives be notified of the election of Gary Lee Sisco of Tennessee as Secretary of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3005), "An Act to amend the Federal securities laws in order to promote efficiency and capital formation in the financial markets, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore (Mr. WALKER) signed the following enrolled bills and joint resolution on Tuesday, October 1, 1996: H.R. 543, to reauthorize the National Marine Sanctuaries Act, and for other purposes; H.R. 1734, to reauthorize the National Film Preservation Board, and for other purposes; and H.J. Res. 198, appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TODAY

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HOUR OF MEETING ON TOMORROW

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 1, 1996.

Hon. NEWT GINGRICH,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on October 1, 1996 at 2:25 p.m. and said to contain a message from the President wherein he transmits the Second Report to the Congress on the Operation of the Caribbean Basin Economic Recovery Act.

With warm regards,

ROBIN H. CARLE,
Clerk, House of Representatives.

REPORT ON OPERATION OF CARIBBEAN BASIN ECONOMIC RECOVERY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

I hereby submit the Second Report to the Congress on the Operation of the Caribbean Basin Economic Recovery Act. This report is prepared pursuant to the requirements of section 214 of the Caribbean Basin Economic Recovery Expansion Act of 1990 (19 U.S.C. 2702(f)).

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 1, 1996.*

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CONGRATULATIONS IN ORDER TO THE PRESIDENT FOR SPENDING BILL, CONVENING MIDEAST SUMMIT, AND INTRODUCTION OF RESOLUTION RELATING TO TELECOMMUNICATIONS FOR NATIVE AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. RICHARDSON] is recognized for 5 minutes.

Mr. RICHARDSON. Mr. Speaker, I think in the rush to adjourn, the role of President Clinton in ensuring that we have a budget, a budget that reflects his priorities, has been overlooked.

Mr. Speaker, I want to commend the majority for their bipartisanship in reaching this historic bipartisan spending bill agreement. But I think President Clinton deserves enormous credit for avoiding another Government shutdown but also, because of his persistence, the bill that was passed contains $6.5 billion more primarily for education, for fighting drugs, and antiterrorism measures. His dedicated chief of staff, Leon Panetta, worked for 3 grueling days and nights negotiating with congressional leaders to ensure that the bill would be good for this country by moving toward a balanced budget while not violating our values.

The President worked to increase funding for education which included $4 billion for Head Start, $491 million for the Goals 2000 program and $7.7 billion for compensatory schooling for disadvantaged children. He ensured adequate funding for the National Institutes for Health, disease prevention, substance abuse control, and violence against women initiatives.

The President also fought to ensure there was adequate funding for firefighting in the western States and for the victims of Hurricane Fran.

Furthermore, thanks to the President, illegal immigration legislation was approved without the harmful attack on legal immigrants.

The President took out some of the language that denied education to those who are not to blame for illegal immigration and, that is, the children.

At this very time, Mr. Speaker, the President deserves credit for convening a Mideast summit of Arab and Israeli leaders which will hopefully bring about peaceful Middle East negotiations. The President is to be commended for bringing Arafat and Netanyahu into the White House to try to hammer out some personal understandings first, and then to see if there is any way there is a basis for negotiations to start and to get the peace process back on track. It was a courageous move that deserves bipartisan credit and it is critically important in the ensuing days that this bipartisanship that over the years has characterized our foreign policy continue. Sniping and partisan attacks at this time would be very harmful to the national security.

Mr. Speaker, in conclusion, today I am also introducing a House resolution which expresses the sense of the House that universal telecommunications service can only be met if the needs of Native Americans or our Native Americans and Indians are addressed and policies are implemented with the cooperation of tribal governments.

As the joint Federal-State Board on Universal Service prepares to issue its recommendations, the implementation process of the Telecommunication Act reaches a critical stage. I think it is very important to make it perfectly clear that the intent of Congress can only be fulfilled if the universal service policies or procedures established to implement the act address the telecommunications needs of low income Native Americans, including Alaskan natives. Cost-effective solutions are best developed with the cooperation of tribal governments.

When Congress enacted the Telecommunications Act in February, great emphasis was placed on ensuring the delivery of telecommunications services, including advanced telecommunications and information services, to all regions of the country. The principle of universal service is designed to address the exceptional needs of rural, insular and high-cost areas and make sure those services are available at reasonable and affordable rates.

Mr. Speaker, I wanted to address the House, number one, to commend the President for his leadership on achieving a bipartisan budget that allowed us to adjourn for the year, reflecting and reinforcing his domestic priorities; commend the President, too, for his peace-making role with the Middle East leaders right at this very moment here in Washington; and, lastly, to announce to the House that I have introduced this resolution which deals with the telecommunications needs of our Native Americans, that they not be forgotten in this Telecommunications Act.

MILITARY INFILTRATION OF THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, 3 months ago, I was looking at Business Week magazine and I came across an article that caught my eye. It was called "Newt's War Games." It talked about how the Speaker of the House had asked the Pentagon for military officers to be put in his office to help him assess strategy and tactics for maintaining party unity. That was the quote in the magazine. "Party unity" implies heavy partisan activity.

Obviously this revelation concerned me a lot, because this House has very stringent rules about who can be working in our offices for very good reasons. We say that only fellows, if we have fellows in our office, they must be supported by outside third-party groups. We are not allowed to go solicit volunteers in our office or allow volunteers in our office. And if we want detailees from other agencies, House rules say detailees can only come to a committee and that is only after the committee gets permission from the Committee on House Oversight, and then the agency sending the detailee is to be reimbursed. Well, none of these things have happened in this case. The officers have come over and this has been going on now for a very long time. I guess, as I stated before, the biggest concern is the work that they are doing and partisan activities.

If you go back and look at the record, the Speaker himself was quoted as saying that the 1994 campaign was a theater level campaign plan, or what we often call a TRADOC, a training and doctrine command thing. He said its implementation was just masquerading as a public relations device.

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After the 1994 election, he wanted DOD to supply him with these officers to help him pass the Republican agenda. I find it incredible that the Pentagon would comply.

I asked the Pentagon how many people were there, what this was costing, what services were they from, and that was in June. We have still not heard a thing. However, a reporter has told me that when he was talking to one of the staff people in Secretary Perry's office, they said, "Oh, that Schroeder woman. She is retiring, we will just out wait her. We do not have to answer." I find it amazing that even the Pentagon thinks they are above the law.

At the same time all of this was going on, I remind you, this House was doing away with the Caucus on Women's Issues, the Black Caucus, the Hispanic Caucus, the Environmental Caucus, and the Democratic Study Group. We were doing away with all of those on the basis we did not want those different bipartisan groups meeting here. But, by golly, in the interim, we have the Pentagon infiltrating this Congress through different offices and working on highly partisan activities.

A lot of people would say, why in the world would the Pentagon do this? The only reason I can see is it has been profitable for them. They ended up

with a Pentagon number that was almost $12 billion more than the administration had asked for. So there was indeed a great payback.

I got a big kick out of it, because the Armed Forces Journal this month gave me both a congressional dart and a congressional laurel. They said, first of all, my concern about this issue was just too conspiratorial. How in the world could I think that having these military officers deployed to key congressional offices mean that they were going to get increases in their budget?

But then it went on to say they did wish that I would look into which services these different people were from, because it could have fed the interservice rivalry.

That does not make sense. If it fed the interservice rivalry, it probably also fed the increase in the budget.

Then they went on to give me a laurel, pointing out that I was correct in condemning the Secretary of Defense for not having any way of tracking these. There is no system, he does not know where they went or who they are, or at least that is what we are hearing.

If we have military officers, which cost us a lot, that are trained to do military things, that are deployed around, and they do not know where they are and they do not know what they are doing, that truly is astounding. So the Armed Forces Journal gave me a laurel for that. The bottom line is, a couple weeks ago I filed a freedom of information request, and we are continuing to try to get to the bottom of this.

Mr. Speaker, I know my time is up, but I would like to include for the RECORD the articles around this to make this issue even clearer. I certainly hope this Congress gets to the bottom of this mess and stops the violation of our laws.

Mr. Speaker, 3 months ago a small story in Business Week caught my eye. Entitled "Newt's War Games," the story revealed that the Speaker of the House had asked the Pentagon for military officers to help him assess strategy and tactics for maintaining party unity.

This revelation raised, in my mind, several concerns. First, the officers working for the Speaker violate House rules governing fellows and detailees.

Fellows are supposed to be sponsored by a third-party sponsoring organization. Congressional offices cannot solicit or recruit volunteers. That is clearly not the case with the military officers working in the Speaker's office. The military officers are volunteers, not fellows, and the Speaker has recruited them.

Detailees can only be requested by committees, and then only following strict guidelines. Among the strict guidelines is that the requesting committee obtain approval from the House Committee on Oversight and that the committee reimburse the executive branch agency for the cost of the detailee. None of these rules are being followed by the Speaker's office.

Even more outrageous, the military officers are working on partisan, political activities in the Speaker's office, which is a violation of DOD regulations.

The Speaker himself is quoted at a meeting of military officers as saying that the 1994 campaign was "a TRADOC [Training and Doctrine Command] theater-level campaign plan." He described the Contract With America as a "training, implementation document masquerading as a public relations device." After the 1994 election, he requested DOD to supply him with officers to help him pass the Republican agenda in the 104th Congress. Incredibly, the Pentagon happily obliged.

Some of you may recall that when the Republicans took over the House following the 1994 elections they moved quickly to abolish the caucuses that represented women, Blacks, Hispanics, and environmentalists. They even eliminated the venerable Democratic Study Group, a research entity so respected that even Republicans belonged to it.

But the Republican leadership could not tolerate dissent, could not tolerate differing opinions.

But, at the same time, unbeknownst to the public until now, the newly elected Speaker of the House, NEWT GINGRICH, was making arrangements to install a secret team of military officers in his office to help him strategize and pass the Contract With America.

What did the Pentagon get out of this deal? It's hard to tell, because everything has been so secret, but clearly the Pentagon is happy when it makes Members of Congress happy. When it can make the Speaker of the House happy, well, that approaches ecstasy in military circles.

You may have noticed that the House passed a DOD authorization bill giving the Pentagon almost $12 billion more than the administration requested. That's not a bad return on DOD's investment in the Speaker's office.

Earlier this year, the Speaker issued orders to pump millions of dollars into California in hopes of influencing the elections out there. Were the Speaker's secret military team involved in those efforts—identifying military installations to receive additional moneys?

Ever since that July 1 article in Business Week, I have been trying to get the Pentagon to provide me with documents about its secret arrangement with the House Speaker. The Secretary of Defense has refused to answer the letters.

Fortunately, Roll Call, via the Freedom of Information Act, is beginning to uncover the facts. The September 30 issue carried a long, detailed expose', with more to come.

I would like to reprint the Roll Call article, along with some other related clippings, and my correspondence, as yet unanswered, with the Pentagon.

[From the Armed Forces Journal, Oct. 1996]

In August, Rep. Pat. Schroeder (D-CO) inserted a statement in the Congressional Record noting that there were numerous military servicepeople working in congressional offices. Schroeder attributed the Pentagon's willingness to provide detailees to its thirst for increased appropriations. It's true that the high command is usually very willing to provide detailees. But it was wrong to attribute the prevalence of detailees to some of nefarious conspiracy. Most of the people detailed to Congress are very professional people. Congress benefits from their military experience and knowledge, while they gain valuable insight into the political process. It's no conspiracy. However, if Schroeder's genuinely interested in pursuing this subject, she should ask to what degree the detailees pay out inter-service rivalries.

Although Rep. Pat Schroeder (D-CO), gets an AFJI Dart for her August statement on military detailees to Congress (she observed that the Office of the Secretary of Defense has no system for tracking which servicepeople go to which offices), she also gets a Laurel. These should be such a system. If, as she alleged, there have been ethical lapses, they should be investigated. Schroeder did a service by discovering an element of the civil-military relationship that needs to be examined, systematized and, where needed, purified.

[From Business Week, July 1, 1996]

NEWT'S WAR GAMES

Newt Gingrich is calling in the military to quell rebellions by conservative Republican freshmen. The Speaker has asked three officers on loan from the Pentagon to help assess strategy and tactics for maintaining party unity. The most recent brush with disaster came on June 13 when a mutiny by 15 frosh nearly sank Gingrich's 1997 budget blueprint. The Georgian, a former Army brat who never served, is an avid student of military history.

[From Roll Call, July 1, 1996]

GENERAL GINGRICH?

Is House Speaker Newt Gingrich (R-Ga) improperly using military officers and facilities for political work? That's the question raised by a spate of recent stories. Gingrich himself has been silent on the subject; it's time he spoke up.

The flap began when Business Week reported that Gingrich had asked three officers on loan from the Pentagon to assess the GOP leadership's strategy and tactics for maintaining party unity. This led Rep. Pat Schroeder (D-Colo) to demand an explanation from Defense Secretary William Perry. Gingrich's press secretary, Tony Blankley, then said not to worry, the officers are Congressional fellows working in Gingrich's office "to learn the culture of the Congressional decision-making process."

But then, Roll Call learned that several military officers were participating in a military-style "after action review" on how the GOP leadership nearly lost a fight over its own budget earlier this month. And the Wall Street Journal reported that Gingrich has sent GOP leaders and their aides to US Army Training and Doctrine Command facilities to learn how the military conducts such "after action reviews" This surely would cross the line of using government facilities for partisan political work. When he was asked about all this, House Majority Leader Dick Armey (R-Texas) last week defended the Speaker with faint praise, saying that Gingrich "has a keen mind" and is fascinated with military thinking. Gingrich needs to explain for himself.

[From the Washington Times, July 8, 1996]

DO MILITARY OFFICERS AND POLITICS MIX?

(By Rick Maze)

To House Speaker Newt Gingrich of Georgia, the proposition must have seemed clear. He wanted a military-style, after-action report to show why the Republicans nearly lost a June vote on their balanced budget plan.

So he turned to four military officers, on loan to his office as part of a one-year congressional fellowship program, to provide one.

Gingrich's order to the four officers, one from each service, has opened questions about the purpose and value of loaning military officers for nonmilitary duties.

Rep. Patricia Schroeder, D-Colo., a senior member of the House National Security Committee, complained that the "use of military officers for partisan political activity is, in my view, totally improper."

So now Schroeder wants the Department of Defense to explain how and why there are military officers working for Congress.

Gingrich spokesman Tony Blankley defended the assignment, however, insisting the officers, assigned to the speaker's office since March, are not involved in partisan politics.

The four officers are Navy Cmdr. William Luti, Marine Lt. Col. Drew Bennett, Air Force Maj. William Bruner III and Army Maj. Mike Barron. All four declined to be interviewed for this article.

Gingrich's aides said they saw nothing wrong with the assignments. The whole ides of the fellowship is to provide some military members with an education in the legislative process, they said.

Reconstructing why the Republican leadership only won a June 12 vote on the 1997 budget resolution by a narrow 216–211 margin was a learning process for the officers, and also helped Republicans learn where they failed.

"This program, like other fellowship programs, is designed to mutually benefit the fellow and the office in which he or she serves," Blankley said. "The fellows are here to learn the culture of the congressional decision-making process, while the office benefits from the perspective the fellow brings from his or her profession outside the legislative process."

Congressional fellowships, involving a one-year assignment to a congressional office, are not new. But the practice is growing, according to defense officials and congressional aides.

Although defense officials and congressional aides said no one keeps count of how many officers are given fellowships each year, they estimate there are hundreds of military officers participating in a loose-knit fellowship program.

"No one has a good handle on how many people. It isn't that kind of program," said a Senate Democratic aide who asked not to be identified. By contrast, the White House has a formal fellowship program for military officers in which people apply for assignments, are screened and selected, the aide said.

WHO GETS THE JOBS

For congressional fellowships, it is usually a member of Congress who asks that the military detail an officer to the staff, the aide said.

Sometimes, this is done by name, sometimes by what kind of expertise is sought and sometimes by just a general request, the aide said.

Fellowships are a benefit to politicians because they get an additional staff member at no cost.

The military benefits by keeping a potentially supportive politician happy and, perhaps, by gaining a pipeline into congressional dealings.

Indeed that pipeline has been a problem at times. The Senate Armed Services Committee has at various times banned such officers from attending closed-door executive sessions where defense policy is made, precisely because of leaks that were reaching the services or defense agencies from which the officers came, aides said. Congressional fellows are now allowed to attend closed meetings on behalf of their sponsoring senator, however. "It was a problem with just one or two people," said a long-time aide.

HAZARDOUS DUTY

The hazards of outside-the-military assignments were made clear in the Iran-Contra arms-for-hostages scandal of the 1980s, when Marine Corps Lt. Col. Oliver North faced scrutiny for his work on the National Security Council.

In a new case, Army civilian Anthony Marceca is in the middle of a controversy involving an assignment to the White House that ended in 1994.

Marceca, who now works in an Army criminal fraud unit, was called to testify before Congress about FBI background reports he requested and screened while on loan to the White House security office. This wasn't his first detail outside the Army. In 1989, he spent nine months on loan to the Senate Committee on Indian Affairs as a special investigator.

But congressional aides said Marceca and North don't represent the typical experience.

Said one Senate aide: "Our biggest problem with fellowships is that, as the number increases, it is taking more officers away from military duties at the same time the services have gotten smaller."

[From the Air Force Times, July 15, 1996]

FELLOWSHIPS DRAW POLITICAL HEAT—SCHROEDER COMPLAINS THAT MILITARY IS USED IN PARTISAN ACTIVITIES

(By Rick Maze)

To House Speaker Newt Gingrich of Georgia, the proposition must have seemed clear. He wanted a military-style, after-action report to show why the Republicans nearly lost a June vote on their balanced-budget plan.

So he turned to four military officers, on loan to his office as part of a one-year congressional fellowship program, to provide one.

Gingrich's order to the four officers, one from each service, has opened questions about the purpose and value of loaning military officers for nonmilitary duties.

Rep. Patricia Schroeder, D-Colo., a senior member of the House National Security Committee, complained that the "use of military officers for partisan political activity is, in my view, totally improper."

Schroeder wants the Department of Defense to explain how and why there are military officers working for Congress.

Gingrich spokesman Tony Blankley defended the assignment, saying the officers assigned to the speaker's office since March are not involved in partisan politics.

The four officers are Air Force Maj. William Bruner II, Marine Lt. Col. Drew Bennett, Army Maj. Mike Barron and Navy Cmdr. William Luti. They declined to be interviewed for this article, referring questions to Gingrich's press office.

The whole idea of the fellowship is to provide some military members with an education in the legislative process. Reconstructing why the Republican leadership won a June 12 vote on the 1997 budget resolution by a narrow 216–211 ratio was a learning process for the officers while it helped Republicans learn where they failed, leadership aides said.

"This program, like other fellowship programs, is designed to mutually benefit the fellow and the office in which he or she serves," Blankley said. "The fellows are here to learn the culture of the congressional decision-making process, while the office benefits from the perspective the fellow brings from his or her profession outside the legislative process."

Congressional fellowships, involving a one-year assignment to a congressional office, are not new, although the practice is growing, according to defense officials and congressional aides.

Gingrich is not the only member of Congress to have military officers working for him. Although defense officials and congressional aides said no one has kept count, they estimate there are hundreds of military officers participating in a loosely knit fellowship program.

"No one has a good handle on how many people. It isn't that kind of program," said a Senate Democratic aide who asked not to be identified. The White House has a formal fellowship program for military officers in which people apply for assignments, are screened and selected, the aide said.

For congressional fellowships, it is usually a member of Congress who asks that the military detail an officer to the staff, the aide said. Sometimes this is done by name, sometimes by what kind of expertise is sought and sometimes by just a general request, the aide said.

Fellowships are a benefit to politicians because they get an additional staff member at no cost, according to congressional aides who asked not to be identified. The military benefits by keeping a potentially supportive politician happy. The services may also get a pipeline into congressional dealings, aides said.

With many senators sponsoring congressional fellows, the Senate Armed Services Committee has at various times banned military officers on congressional staffs from attending closed-door executive sessions where defense policy is made because word was leaking back to the services or defense agencies from which the officers came, aides said.

"It was a problem and with just one or two people," said a longtime aide, who noted congressional fellows are now allowed to attend closed meetings on behalf of their sponsoring senator.

The attention brought to Bennett, Luti, Bruner and Barron sends a new warning to potential fellows, whether service member or civilians working for the military, and civilian, about the risks of temporary assignments.

The hazards of outside-the-military assignments were made clear in the Iran-Contra arms-for-hostages scandal of the 1980s, when Marine Lt. Col. Oliver North faced scrutiny for his work on the National Security Council.

In a new case, Army civilian Anthony Marceca is in the middle of a controversy involving an assignment to the White House that ended in 1994.

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[From Roll Call, Sept. 30, 1996]

GENERAL GINGRICH ICES THE 104TH CONGRESS—SPEAKER DEPLOYED ART OF WAR IN HIS PLAN FOR THE HOUSE

(By Damon Chappie)

At the US Army's Fort Monroe, where onlookers once watched the Civil War clash between the Monitor and the Merrimack, the

trading of war stories by some of the military's finest strategists is a daily occurrence.

But on a warm spring day last year, generals and colonels gather to hear tales from a different sort of commander, House Speaker Newt Gingrich (R-Ga), fresh off his greatest victory.

"The 1994 campaign was a TRADOC, theater-level campaign plan, executed by building small-unit cohesion, delegating throughout with mission-type orders, and designed to have real-time capability to respond to an opponent that was changing, period. I know it was. I have lived it," Gingrich declared to the assembled officers.

What's a TRADOC? It's Army-speak for the Training and Doctrine Command, headquartered at Fort Monroe, Va., where officers come to learn about fighting the modern war. In Gingrich-speak, it's the place to go to learn about fighting the modern political war.

And as Gingrich, the stepson of a career Army combat officer who never served in the military himself, candidly admitted, "Almost every major thing I have done for over a decade has been directly shaped by TRADOC."

In numerous trips to Fort Monroe and other Army installations across the country since he was elected to Congress in 1978, Gingrich learned lessons that, he told the senior officers last year, "changed my entire life."

The Speaker has had a well-publicized fascination with other management theories, borrowing heavily from the likes of such corporate gurus as W. Edwards Deming. But, as documented in Army memos and tape-recordings obtained by Roll Call, it has been military inspiration that has guided Gingrich's generalship of the House Republican revolution.

Gingrich himself explained this in a series of freewheeling discussions with the senior officers who developed the modern Army's tactics. Those conversations, during visits by the speaker to Fort Monroe in 1993 and 1995, were recorded on nearly ten hours of audio-tape by the Army and obtained by Roll Call under the Freedom of Information Act.

And if the contract was basic training, Gingrich has introduced other military concepts to the House throughout his Speakership:

Gingrich bolstered his staff with four military fellows, one from each of the four services, an unprecedented step for a sitting Speaker.

"The Speaker has for a long time been impressed with the methodologies often employed in the military in order to better understand and improve their own operation," said House Majority Leader Dick Armey (R-Texas) after news stories appeared this summer about the military fellows in the Speaker's office. "We were going to raise a tremendous amount of anger, therefore, what we ought to do is go ahead and get to a balanced budget so there was an upside to the downside. Because otherwise we would cut spending just enough to piss everybody off but not enough to achieve anything. And there was no way to avoid cutting spending. * * * And so, I began just casually saying the week after the election, we're going to get to a balanced budget by 2002."

House Budget Chairman John Kasich (R-Ohio) and Senate Budget Chairman Pete Domenici (R-NM) resisted at first but finally relented. "What I was trying to do was create a core of a paradigmatic breakthrough" that was designed to outflank then-Senate Majority Leader Bob Dole (R-Kan).

If a balanced budget by 2002 was the accepted standard, Dole "sure as hell wasn't going to be to my left," Gingrich said.

Gingrich, in his discussions at TRADOC, offered many of his own ideas on military policy, freely giving his advice on how the Army could improve its work. In addition to stressing that the Army should seek to expand and integrate its futuristic doctrine to the other service branches, the Speaker called for a new emphasis on fighting "small wars" and the establishment of a unified command to combat terrorism.

But Gingrich readily acknowledged that "I've learned more out of this place than it's learned from me. So I'm doing pretty well. So far, the balance of trade looks pretty good. * * *"

At Fort Leavenworth, in Kansas, Gingrich said he had to relearn his thinking about "small unit cohesion" because "I wasn't doing it right." But eventually, he got it right and used the concept to ensure victory after victory in the first months of the new Congress.

Along with hundreds of pages of additional documents obtained under FOIA, the tapes provide new insights into the deep fascination and symbiotic relationship that Gingrich has developed with the military.

Most striking is the explicit way in which the Speaker has sought to adapt the Army's war-fighting concepts to his own political battles—from Gingrich's early days at GOPAC, his Republican training center, to his command these past two years of House Republicans during victories on welfare reform and spending cuts and a decisive defeat in the balanced budget battle.

From the most theoretical discussion of military doctrine—featuring terms like "digitized battlelabs," "center of gravity," "operational art," and "commander's intent"—to the very practical use of the Army's standard field manual, Gingrich, ever the history professor, is the most eager of students, the tapes and other documents show.

One military-style lesson, Gingrich told the TRADOC senior officers in May 1995, was applied in the much-touted "Contract with America," which the Speaker said was not a political public-relations effort as much as a basic training document.

"Nobody fully understands this," he confided to the generals and other officers, "but if you think of the 'Contract with America,' it was, in fact, a training implementation document masquerading as a public relations device which allowed us—and it was designed for this purpose—it was designed, because we felt we were in control. It was designed as a training implementation document so the freshmen when they arrived and the brand new chairmen could not be normal."

"It guaranteed that from Election Day through April, early April, that the House Republican party would have to behave in a deviant manner from what it would normally be expected to do. The theory being is that if you could get them through the first 100 days being deviant, that the deviancy would become normal," Gingrich said.

Gingrich bolstered his staff with four military fellows, one from each of the four services, an unprecedented step for a sitting Speaker.

At the Pentagon, according to a source who declined to be identified, the fellows working in Gingrich's office were called "Shali's interns," referring to the favor by Gen. John Shalikashvili, chairman of the Joint Chiefs of Staffs, who sent up the fellows to Gingrich.

One of the Army fellows, Gingrich said in the tapes, is "in any meeting I have that he wants to be and he is working directly with my staff in understanding the rhythm of what we're doing."

Military-style "after-action reviews," assessing the performance of an operation, were conducted on the battles over the 1995 spending bills and the razor-thin vote this year on the budget. Another after-action review, GOP sources said, is being contemplated by the leadership to assess this session.

Gingrich ordered the GOP leadership staff as well as junior Members to attend training seminars at Fort Monroe and other bases around the country.

The project, led by Rep. Pete Hoekstra (R-Mich), "represents Speaker Gingrich's-Majority Planning Group that the Speaker wants to act as a TRADOC," according to an Army memo.

The group, which attended sessions on the "operational art of war," included Reps. Chris Shays (R-Conn), J.D. Hayworth (R-Ariz), Sue Myrick (R-NC), and James Talent (R-Mo). Gingrich, according to Army documents, wanted to train the Members to the level of "a good captain."

"He is always fascinated with questions of methodology, technique, style, and it is his belief that using and learning the methods often employed in the military as management tools can be beneficial to us."

The study of military strategy, said Tony Blankley, Gingrich's spokesman, "is an important part of his life."

In the tapes, Gingrich says that his relationship with the Army's doctrine center took off in 1979, his first year in Congress, but even then, he had a general's long-term view of a military campaign. "I first came down here as a freshman in 1979 because I figured it would take a generation," he said last year.

"He's been coming down here for 15 or 20 years," said Joel Hedenstrom of TRADOC's Congressional liaison office. "Newt has had a great interest in TRADOC for many, many years. He has steeped himself in military doctrine. I think it stems from his being a historian and a military brat."

In 1993, as he prepared for the final drive that routed the Democrats from their entrenched position as the House majority, Gingrich told the TRADOC senior officers that "my interest in what you're doing is at a passionate level of the user. You talked earlier about being able to provide assets to people who are sent to combat environments. I am in combat every day, so I have a real user desire to figure what's the state of the art on training, what is the state of the art on doctrine, the state of the art on technology, because I will literally take that back and transfer it back into the civilian system as rapidly as I can figure out how to do it."

And Gingrich has been true to his plan. Not only the contract, but also nearly every significant event of this Congress has been framed by the Speaker in military terms.

Gingrich, in the tapes, said he studied the battles of Arthur Wellesley, the Duke of Wellington, "because I think our budget fight is a lot like the Peninsular Campaign," a campaign in Portugal and Spain in the early 1800s that eventually led to Wellington's ascendance and Napoleon's abdication.

In another "quick war story" for the officers, Gingrich described how he pushed his GOP Congressional allies to accept the idea of balancing the budget by 2002.

At Fort Leavenworth, in Kansas, Gingrich said he had to relearn his thinking about

"small unit cohesion" because "I wasn't doing it right." But eventually, he got it right and used the concept to ensure victory after victory in the first months of the new Congress.

And Gingrich ordered his troops about like the most seasoned of generals. He told GOP Whip Tom DeLay (Texas), who had just beaten Gingrich's best friend, Rep. Bob Walker (R-Pa), for the job, that "it's not your job to count votes. It's your job to ensure victory."

The strategy, Gingrich recalled, had worked.

"Just one quick war story. The Whip wanted a huge office space in the Capitol. I mean, it was the Taj Mahal of all of our [office space]. And I looked at him, and he said, 'I've got to have this much space because I don't have enough money, and I'm going to convince each of my deputy whips that they have a little office in the Capitol if they will then assign one of their staff from their personal office, so we can have this massive vote-counting system.'

"And I said, 'Understand this. I will have your ass if we lose a vote.' And he looked at me, he said—he got a big grin, and he said, 'Deal.' And so I gave him the things. And we came a couple of times close, I just stared at him when we had a couple of very close votes.

"And I said, 'I am watching you.' He said, 'We are going to win.'"

For Gingrich, it was a demonstration that the "ultimate responsibility of the commander" is to define victory.

"And he shouldn't accept the command if he can't get to a definition of victory or success that he believes—it is professionally irresponsible."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 1996.

Hon. WILLIAM PERRY,
Secretary, Department of Defense,
Washington, DC.

DEAR SECRETARY PERRY: I am extremely troubled by the disclosure in the current issue of Business Week that Speaker of the House Newt Gingrich "has asked three officers on loan from the Pentagon to help assess strategy and tactics for maintaining party unity."

Would you be so kind as to tell me (1) why the Pentagon is detailing officers to the Speaker; (2) how many officers have been detailed; (3) what duties the officers have been given by the Speaker; and (4) what are the estimated annual salaries of these officers.

Second, I request copies of any and all communications between the Pentagon and Speaker Gingrich concerning this arrangement. I also request copies of any written communications, memoranda, etc., on the aforementioned "party unity" project.

Third, I would like to know, for the record, whether it is a legitimate use of taxpayer funds for military personnel to be providing advice on "maintaining party unity," which is clearly a partisan objective.

Please respond at your earliest convenience.

Sincerely,

PAT SCHROEDER,
Congresswoman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 24, 1996.

Hon. WILLIAM PERRY,
Secretary, Department of Defense,
Washington, DC.

DEAR SECRETARY PERRY: On June 21 I wrote to you concerning a report in Business Week that the Pentagon has loaned House Speaker Newt Gingrich several military officers "To help assess strategy and tactics for maintaining party unity." On Friday, according to the Associated Press, the Speaker's press aide confirmed that four officers are assigned to his office, but denied that they have any "responsibilities in connection with achieving 'party unity.'"

That denial notwithstanding, Roll Call reports in today's edition that Speaker Gingrich "has ordered a military-style review to help the House leadership determine how they nearly lost this month's budget vote." Assisting in the review, the story continues, are "several military officers on loan to the Speaker's office from the Pentagon." The officers' involvement was confirmed by several Members of Congress and GOP staff, according to Roll Call.

The use of military officers for partisan political activity is, in my view, totally improper.

I would like an answer by COB Thursday, June 27, to the questions I raised in my June 21 letter.

Sincerely,

PAT SCHROEDER,
Congresswoman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1996.

Hon. WILLIAM PERRY,
Secretary, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: In reference to my inquiries of June 21 and 24 concerning the military officers detailed to the office of Speaker Newt Gingrich, I would like to bring to your attention an article, "General Newt," that prepared in the Wall Street Journal on December 18, 1995.

According to the Journal story, the "U.S. Army Training and Doctrine Command has the mission of helping develop a force to fight the battles of the next century. It is also helping Speaker Newt Gingrich fight the political battles of today."

The story details how "members of the Republican leadership and their staff" have been studying "military planning and training methods" at the "Tra-Doc" centers at Fort Monroe and Fort Leavenworth. More significantly in light of the disclosures of the past week, the story quotes a Lt. Col. David Perkins, who was at the time working out of Speaker Gingrich's office "helping the leadership run military-style 'after-action reviews' to identify lessons learned from the handling of major bills."

The Journal story indicates that the use of military officers by the Speaker has much deeper and more complex roots than simply the odd officer who happened to wander onto Capitol Hill to brush up on a civics lesson. Needless to say, I reiterate my serious concerns about the appropriateness of using military officers to assist in the partisan activities of the leadership of the house.

I would like to add to my requests of June 21 and 24 that you provide me with the requested information for the entire period of Mr. Gingrich's speakership. I would also like to have copies of any and all "after-action review" memoranda or reports written by the military officers.

Sincerely,

PAT SCHROEDER,
Congresswoman.

SCHROEDER FILES FOIA REQUEST ON MILITARY FELLOWS

Representative Pat Schroeder (D-CO) today filed a Freedom of Information Act request for copies of all documents pertaining to the military personnel on loan to members of the House and the Senate.

Schroeder has questioned the use of military personnel by members of Congress after reports that the Speaker of the House, Newt Gingrich had used officers on loan from the Pentagon to study how to maintain Republican party unity. Schroeder filed the FOIA request after three letters to Secretary of Defense, William Perry sent last June went unanswered.

"Assigning military personnel to work in Congressional offices raises some serious conflicts of interest. Moreover, the Pentagon has no idea how many people are over here, or what they are doing," Schroeder said. She added, "this lack of accountability is ridiculous and is costing the taxpayers millions."

The letter, which appears below, was sent to the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Secretaries of the Army, Navy, and Air Force.

"Pursuant to the Freedom of Information Act and the Privacy Act I hereby request copies of any and all documents including, but not limited to, letters, memoranda, and e-mail, for the period January 1993 to date between members of congress (both House and Senate) and [DOD/Army/Navy/Air Force/Joint Chiefs] concerning the assignment of interns, fellows, or detailees to congressional offices. The request includes any documents between [DOD/Army/Navy/Air Force/Joint Chiefs] officials in reference to congressional requests for such assignments.

"I also request copies of any and all [DOD/Army/Navy/Air Force/Joint Chiefs] regulations on the subject of interns, fellows, and detailees."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 28, 1996.

Hon. WILLIAM PERRY,
Secretary, Department of Defense,
Washington, DC.

DEAR SECRETARY PERRY: The disclosure in the September 30 Roll Call that military personnel and facilities have been and are continuing to be used for partisan political purposes is extremely troubling. These activities are no doubt a violation of DoD and House regulations, not to mention federal law.

But instead of taking action to do something about this scandal, you have ignored it.

As you are well aware, I asked you for information about these activities last June, three months ago. Not only have you not answered my letters, I haven't even received the courtesy of an acknowledgement. As a result, six weeks ago I filed a series of Freedom of Information Act requests. I am sure your staff is doing its best to bury these requests. In fact, one of your staff members recently told a reporter—"oh, she's retiring, we'll just wait her out."

Your stonewalling on my inquiries into the use of military personnel comes in the wake of a string of troubling disclosures involving the defense department: the abandonment of POW's in North Korea; the bungling of the investigation into the Gulf War syndrome; the negligence in Saudi Arabia that resulted in the deaths of 19 Americans; and the discovery of certain U.S. army training manuals that advocated torture, blackmail, and other illegal, immoral activities.

I would like a full report about the use of military personnel in the Congress and I would like it now.

Sincerely,

PAT SCHROEDER,
Congresswoman.

APPOINTMENT AS MEMBER OF LIBRARY OF CONGRESS TRUST FUND

The SPEAKER. Pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended by section 1 of Public Law 102–246, the Chair appoints the following member on the part of the House to the Library of Congress Trust Fund Board:

Mr. Edwin L. Cox, Dallas, TX, to fill the unexpired term of Mrs. Marguerite S. Roll.

IT'S OFFICIAL: CLINTON BREAKS PROMISE ON BOSNIA DEADLINE

The SPEAKER. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I had come over here to talk about something that was very alarming to me, and certainly to the gentleman from Pennsylvania, Mr. WALKER, about the Clinton administration's shielding a report that is critical of the Clinton administration on antidrug policy, particularly using executive privilege to bury politically damaging information, which talks about a lack of leadership in the fight against drugs. That, to me, is alarming, considering the seriousness of the situation. But on the way over, I happened to be approached by others who pointed out something even more alarming.

Mr. Speaker, it has just come to me that President Clinton is going to try to keep our troops in Bosnia longer than he told the American people. What many of us have been predicting all year long was confirmed yesterday by Pentagon spokesman Kenneth Bacon when he reported that 5,000 new, and I repeat new, troops were being deployed to Bosnia from Germany and would stay there until mid-March, way beyond the December 20 deadline for bringing our troops home.

Mr. Speaker, the American people are certainly capable of recalling that last year, when President Clinton ordered this ludicrous mission, he told us all that our troops would be home by December 20. It was not believable then, and the mid-March deadline is not believable now. I am afraid this thing is going to turn into another Vietnam, going on and on and on.

Mark my words: If President Clinton is reelected, he will immediately move to extend this new deadline, further exposing our troops to harm, and further squandering our precious military resources that are defense budgeted and which the American taxpayer can ill-afford.

Mr. Speaker, American troops have no business being in Bosnia beyond that December 20 deadline. The Bosnian tragedy was always and remains mostly a civil war. American foreign policy has never been based on inserting our own military personnel into the middle of these civil war situations, until the Clinton administration took office. Rather, our policy has always been preserving peace through strength by maintaining our alliances, our treaties with other countries, and only deploying troops when sovereign allies were under external attack or vital American interests were at stake; in other words, when other countries were being invaded by another country, like in Kuwait, that was reason for us to defend our treaty allies. This certainly is not. Bosnia does not meet this test, and it never did.

Mr. Speaker, we must bring those troops home, as the President promised.

PARTING REMARKS

The SPEAKER pro tempore (Mr. WALKER). Under the Speaker's announced policy of May 12, 1995, the gentleman from Oregon [Mr. COOLEY] is recognized for 60 minutes as the designee of the majority leader.

Mr. COOLEY. Mr. Speaker, this will probably be my last presentation in the House of Representatives, as I am not returning for the 105th Congress. I would like to kind of wrap up my career and put a few things straight on the RECORD.

I have learned a lot and gained a lot of knowledge. I am a product of public education. I was born in Central Los Angeles back in 1932, and it was a tough town then in 1932, as it is now. I was always taught to believe that you will be responsible for things you do and things you do to one another, and you have to pay the consequences when you have violated somebody else's either personal or private rights.

This country has changed a great deal since 1932, all the way through the thirties and forties and fifties, until today you do not have a right to retaliate in any way, manner, shape or form, no matter how many people cast disparaging remarks upon you, insult you, even go as far as trying to spit on you today.

I was reminded, and I have made a lot of press lately for using a gesture to the Sierra Club, and one of my Congress friends here reminded me that before Nelson Rockefeller became Vice President of the United States, he used the same gesture one time in his frustration.

I am from a different time and I am in a different place, and I would like to go back to the old days when people were responsible for their reactions and paid the consequences when they tread upon another individual's rights.

I came to Congress with a very interesting background. I spent most of my private life in the corporate world. I am, as I said before, a product of public education. I went off in 1952 during the Korean conflict, I was a Special Forces agent in the 10th and the 77th Special Forces and Airborne, and got out and went, through the GI bill, through El Camino College and eventually to Southern Cal and graduated.

I never believed I was going to Congress, I never wanted to be a politician. I think I probably still have the same thought today as I did when I was growing up, that politicians have a real difficult time relating to the real world they live in.

I am a firm believer in term limitations. I think term limitations are necessary in order to reform this system we have here. Not that the system is bad, but when you are out of touch with the real world, you get distorted a little bit.

I am a firm believer about the process we go through here. We talk about Republicans and Democrats. I am not sure that there is such a thing as a Republican or a Democrat, except after the first vote in the House of Congress and the U.S. Senate, which determines who is going to lead this body and who is going to run the committees.

I think what we do is, we really are either conservatives or we are liberals, and of course we have some people in the middle who have no conviction whatsoever and just go with whatever way they think is to their advantage.

I think the conservative Members of Congress we have are more Jeffersonians than anybody else and really truly believe in small government, less government, more responsibility back to the States and individuals; and I think the liberal aspect of Congress is more in the vein of, let us say, Roosevelt and others who believe in the large central government, that government, big central bureaucracies know best and can control you better than you can control yourself at the Federal level.

People do not understand the code of CFF'S. Literally we pass laws that basically control every single thing you do in your life. We just do not enforce all of them. If we did, we would have major protests, so we just let that go.

The problem is, is that government has passed intrusive laws, punitive laws, laws that control and restrict us. If we look in the old Webster's dictionary, not the new, if we look up the word "law," the first word in the dictionary says "harmony." I do not think our laws have created harmony in this Congress or any Congress preceding this one.

We have developed an attitude here that we are going to help you, if you like it or not, and we are also going to control you, whether you like it or not.

I leave Congress, though, with a lot of good thoughts. Our Speaker here spoke on the very last day before we adjourned about how our Founding Fathers developed this system in such a way as to make sure that no dictator ever could take over control of this

country, and that is why it is complicated and has the intricate parts working in it. Well, I agree with him, and I believe that we need to turn this country back to our basic constitutional principles.

But I also want to remind the Speaker and the people listening here today that through the evolution, through 9 individuals that make up the Supreme Court, we have reinterpreted the original meaning of the Constitution. And we have a lot of things today that make the original Founding Fathers I think probably turn over, as they say, in their graves to see what has happened to the Constitution and what has happened to this country through interpretation by individuals, 9 individuals to be exact, and how this country is managed and run today.

I think we should stick to our charter. I think we should stick to the Constitution, and we are not really basically doing that in many cases.

Getting back to the Constitution, I am a firm believer in the Constitution. I am even a firm believer in the First Amendment, which is freedom of speech. But I think that we have allowed the freedom of speech process to go way beyond what our Founding Fathers really thought of the first amendment. The area we have allowed that to exceed is the area of media or communications.

The media today, other than talk radio, has an open blanket. They can say anything they want to about any individuals without ever any reprisal whatsoever. They have actually adopted a very good tactic by a very infamous individual, Joseph Goebbels. Hitler learned a long, long time ago that if you control the media, you control the minds and the thought of the people. And they did a very, very good job.

What has happened over the evolution of time is the American media has developed some of the same tactics. If you tell a lie long enough and frequent enough, believe it or not, people start to believe it, if it is true or not. And if you try to stop the lie, you end up in court, they keep running it. And then if you win, they run a retraction. And they run a retraction and always kid about running it on the back page in 7-point type, and that is pretty much what happens in this country.

People wonder why the media is looked at with a lot less confidence. The media makes news, they do not report the news anymore. We have very few publications in this country that are very, very conservative, that really try to report the news objectively. It is always slanted in one way or another, depending on what political spectrum you come from.

□ 1430

It is a sad state of affairs. We see newspapers going out of business, and rightfully so. People are really kind of tired of it in a way and we see the popularity of talk radio. Under talk radio what happens is you have the ability to call in and challenge the one who is making the statements and try to get some kind of a dialogue going back and forth in order to change that.

Overall, I would say that the 104th Congress has accomplished a great deal, and I think this is a historical Congress. You heard earlier on, if you heard some of the earlier speakers, some of the things that were discontinued in the Congress. These different entities that were discontinued by the 104th Congress were really paid for by taxpayers, using your money for special interest groups. We did not just discontinue them, we just said we are not going to fund them any longer, and I think we have done that all down the road.

I was sad to see I was one of the 36 to vote against the continuing resolution last week because I do not believe we should have spent, and there is an argument, some were saying $6.5 billion, now I hear $7 billion more than we proposed to spend. I want to tell you that we are already $22 billion over budget and now we are $7 billion or $6.5, whatever you want to believe, over budget. So that means we are about $28 billion.

If we continue this trend, by the year 2002 we will be $6 trillion and not $5 trillion in debt, and this balanced budget amendment is going to go down just like the Gramm-Rudman and everything else. The American public cannot afford this kind of a debt load.

Remember that we almost have a billion dollars a day in interest only. We could do a lot with a billion dollars. If you are socially inclined, just think of what we could do to help education, people on the street, the homeless, and those people who really need help if we had an extra billion dollars a day to spend on these efforts.

In Congress many people have opinions about me. Some of them are very good, and of course some of them are very bad. I will take a quotation out of Kennedy's old book, and I believe that this is very true, that you forgive your enemies but you never forget their names. And I think that is a good policy to follow through.

I know the public, the way it has been characterized that the public has looked upon the 104th Congress, in the media at least, that we have not accomplished anything, we have done a great deal to hurt everything and that, therefore, we should not be deserving to come back again. I want to tell you that the leadership, the Republicans, good or bad, deserve to come back.

We need to carry on what we are trying to do. Even though we have not accomplished everything we wanted to do, I think we have went a long way toward that accomplishment. If nothing else, we have at least added to the debate and made the American public aware of what is happening as far as their finances are concerned, as far as welfare is concerned, as far as Medicare is concerned, and some of the other social issues that are very important to the American public.

I think in this body you really do not have, quote-unquote, enemies. You really have people who have different philosophical opinions. And I think those that are very, very far to one way or the other, everybody respects those people. Probably the people in the middle, which I call the middle-of-the-roaders, the get-along, go-alongs, they have no opinions about anything, just whoever is leading the charge, they jump into it. It is kind of sad that we have people like that in Congress because I think we should all be standing up to be counted, and sometimes that does not happen.

In closing, I want to say that I think the toughest thing on Congress people, individuals, both the male and the female in Congress, is spouses. It is very, very tough on the spouse. We work long hours. We spend a lot of time here and do not spend a lot of time at home, and it is really a sacrifice. I will be glad to get back to my little house and my home and my little ranch in Oregon after spending 2 years here.

At one time I spent about 6 months and only talked to my wife on the phone, which is not very pleasant, especially at my age. I also want to tell you that their support is very necessary in making sure that you have some kind of stability because otherwise you really start doubting yourself; am I really doing what I should be doing, am I really serving the constituents, am I voting for what my people sent me here for.

A lot of people in Congress do not realize this, but I am an employee. The people of the Second District of Oregon hired me to come here and represent them, and, therefore, as an employee, I should be doing whatever I can do to benefit them, trying to pass laws, making sure they are not overtaxed, to benefit them and make sure their lives are better for me being here than they were before I came.

Sometimes that is difficult. As you know, a lot of us vote against legislation and you wonder why. Because part of the legislation is good and it is lumped in with things that are not so good. I would very much prefer to see every bill stand on its own and not be lumped together so, therefore, you could really be accountable. But a lot of times we vote for things because there are three or four good pieces of legislation and there is a couple we do not agree with, but you go ahead and vote for it because you want the good and so, therefore, you have to accept the bad.

We have been taught and told here and you have been taught and told

yourself that politics is an art of compromise. Well, I think we have compromised ourselves into $5 trillion worth of debt. We have compromised ourselves into a way of life where people have lost the work ethic. I think we have compromised ourselves into a way of life where people believe someone, quote-unquote, the government, owes them something or should give them something and they are not responsible for themselves. That is what we have done in the art of compromise.

There is no such thing as the government. You are the government. It is not a third entity. So every time you see a social program and you say, "gee, isn't that nice," remember you are paying for it. And if you are willing to do that, that is fine, but Congress, the Senate, and the administration should be willing to tell you the facts, and a lot of times we really do not. And you do not get the facts from the media because the media has a different agenda as well.

So you need to make sure the people you send to Congress are accountable to you and you know where they stand on issues and you evaluate them before you hire them to come here and represent you.

In closing, I want to thank not only my wife for her support but for the people on the floor here that supported me and some really good Americans I think that are really here. I listened to the gentleman from California, Congressman DORNAN, the other night talk about the military. We have a lot of people, but nobody talks about the military as eloquently as Congressman DORNAN does, really a good American and understands what the Constitution is about and what our responsibilities really are. But he has been criticized very deeply for this, not only by the media, by the executive branch, but even by people in his own party, the more moderate part of the party.

I have a great staff of people who have dedicated and stuck by me through a lot of tough times. We have had about 6 months of living hell and my chief of staff, Brian MacDonald, the guy who runs my office; Brian Hard, my legal man; David Spooner; Doug Badger, natural resources; Chris Matthews. Chris handles PR and also our press releases. Jason Vaillancourt. Jason is kind of a handyman in the office. And Merrick Munday, who handles all of our computer work.

Out in Medford we have Duane Bales, who runs the office; Terry Haines handling our GI stuff and the VA stuff; Ryan Beckley and Teri Thornburg.

These kids, and I say kids because to me they are young people, they are in their thirties really, really will make you feel good about America. And in fact all the people working here on both sides of the aisle in the way of staff, these are really dedicated, bright young people. When you look at them, no matter what you hear in the media or what you read in the papers about children graduating and cannot read and write and really are not set up for the labor market, you look at the young people who come to Congress, and maybe they are the brightest we have, but I will tell you, they are really sharp and they need a lot of praise and they need a lot of nourishment and encouragement. And I think we are doing that here because I think those will be the leaders in the future of this country, and I think we are probably leaving it in some pretty good hands.

You will hear in the next 40 some odd days, what we have running in the Presidential debates, a lot of things. I think you need to really make sure you weigh those things out and understand what is coming, who is saying what about whom and where we are really headed and what we want to try to do.

One of the most critical things in this country I think today is to make sure that we do not leave a huge debt for our children and our grandchildren. And I think that was one of the primary objectives of this 104th Congress, and hopefully it will be of the 105th Congress. We cannot continuously spend more than we bring in. The debt load will literally cut down and shut down the economic value of this country and destroy it. And I think this is the main focus. I think the 104th has done a good job on this. I think the 105th will as well.

So in parting from Congress, I want to say basically I came here not as a politician, but I came here hopefully to learn something, to participate in the legislative process. I have done that. I have been here. I am sad to leave this year, but everything worked out probably best for everybody. I think that we need to have term limits. I think we need to bring more people into the system to understand it.

No one has ever captured Congress in the written word. I have read every book anyone has written recently on Congress. They have never really captured Congress. I am not sure anybody totally understands this process. It is complicated, it is very decisive, there is a lot of things that go on that people do not know about, not even we in Congress know about, that come up out of the ground, and it is pretty tough sometimes to be able to perceive all these things going on.

It is the best system in the world. Our Founding Fathers did a pretty good job of setting it up. We have messed it up a little bit through the Supreme Court decisions, but I think that all in all we have a pretty good country. I am very, very concerned about the lack of support by many, many people in this country of what is happening to them personally, how the laws have been, like I said before, more punitive than encouraging. We should be passing laws that benefit people and not laws that restrict them and prohibit them from doing what they can do best in the free enterprise system.

So, Mr. Speaker, it has been a great time, I have enjoyed it.

CALLING FOR A COMPLETE INVESTIGATION OF JUDGE REINHARDT'S CHARGES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DOOLITTLE] is reallocated the reminder of the majority leader's hour.

Mr. DOOLITTE. Mr. Speaker, let me say to my friend and colleague from Oregon, he is someone who I very much have enjoyed working with, someone who truly has stood tall for the Constitution and sometimes has been alone or nearly alone in taking those positions, and I always found him to be a very reliable voting Member of the U.S. House of Representatives, both here on the floor and in committees, where he has served both in the Committee on Agriculture and in the Committee on Resources, where he could always be counted upon to stand for the interests of the American people no matter what the power of any given special interest that might be arrayed against him on any given issue. So I say to my friend that you will be missed, and I wish you and your wife well in the coming years.

Mr. Speaker, I would also like to comment upon a couple of items that were brought to my attention, and it was sufficiently late in the session, I regret, that I have not been able to fully act upon this information, but I thought I would set the stage today for later on in the year or in the first part of next year.

I had provided to me an article from the San Francisco Daily Journal, dated July 18, 1996, entitled "Reinhardt's Lament," by Michael Rushford, president of the Criminal Justice Legal Foundation.

This article examines a speech that Judge Reinhardt delivered on June 4 to the Beverly Hills Bar Association at a luncheon honoring the justices of the California Supreme Court.

□ 1445

The article in the San Francisco Daily Journal dated July 18, 1996, by Michael Rushford is subtitled "Did Federal Jurist's Speech Impugn the Integrity of Other Judges?"

Mr. Speaker, Judge Reinhardt gave, I thought, some very disturbing remarks, one portion of which, or the central portion of which I am now going to quote from. Keep in mind, this speech was given before a body containing many distinguished lawyers and judges at the highest levels from throughout the State of California.

In this speech Judge Reinhardt attacked the habeas corpus law—which

was enacted during the 104th Congress and which was called the Effective Death Penalty Act. This law basically made dramatic reforms which will affect the length of time between arrest and execution upon conviction for a capital offense. It will result in a much quicker handling of matters such as Richard Allen Davis, the brutal murderer of little Polly Klaas out in California. As the Speaker may know, the average time between arrest and carrying out of the sentence has been about 7 years. Actually in California the average has been 11 years because we were afflicted with a very liberal court appointed by former Governor Jerry Brown, and they used every contrivance possible to drag out the imposition of the death penalty.

So this reform that we enacted is a very important one. It certainly upholds the 10th amendment and gives due deference to the decisions of State courts in death penalty matters, while allowing for legitimate exceptions where there is clearly a case in which the Constitution was violated. But it will not allow Federal judges with life terms to step in and manipulate for political purposes these sentences handed down by juries and judges throughout the country.

Whether one is liberal or conservative—and Judge Reinhardt is a self-avowed liberal and makes no bones about it—the judge's statement is not very liberal to say the least. In fact, it stands really in a class by itself. Let me just quote that statement.

Reinhardt announced:

> I have spoken with judges who must stand for election, and I have heard them say that they cannot afford to reverse capital convictions in cases that engender heated community passions.

Let me quote Mr. Rushford, who I think very effectively comments upon what Judge Reinhardt is saying. Mr. Rushford wrote in this July 18 article:

> In making this statement, Judge Reinhardt admitted personal knowledge of the most serious form of judicial misconduct: condemning an unjustly convicted defendant to death because of political pressure.
>
> Considering the magnitude of such disclosures, one wonders why Judge Reinhardt did not immediately report the judges who made them to the State authorities charged with judicial discipline rather than discussing them at a luncheon. In any event, in order to protect hundreds of elected State appellate and Supreme Court justices from falling under suspicion, the names of the judges he has implicated and the improperly decided cases should be made public.

Mr. Speaker, this is of grave concern to me, where you have a Federal judge of the second highest court in the United States who makes this kind of a statement and basically is admitting personal knowledge of judges who have countenanced people going to their death because they were not willing to stand up for the Constitution and the law of this land and stand up for that which is right.

I think Judge Reinhardt owes us an explanation. I think he needs to give the proper authorities the names of those judges of whom he has personal knowledge. I think this is absolutely outrageous that we can have a high judge who is basically telling us, people are going to their deaths who are innocent, and that these things are happening because State judges are intimidated by the very electorate they will have to face.

Mr. Speaker, I have spoken to the chairman of our House Committee on the Judiciary about this. I will be sending the gentleman from Illinois, Mr. HYDE, a letter, and I will send such a letter to Senator ORRIN HATCH, chairman of the Senate Committee on the Judiciary. I am going to include these articles, and I am going to ask for their investigation.

I do not think we can tolerate this kind of gross judicial misconduct in the United States. I call for a complete investigation of Judge Reinhardt's charges and of the underlying information that he has supporting those charges.

I think it is time to restore justice and integrity to our system. I am not so sure Judge Reinhardt is right, but in order to tell you that he is wrong, then we are going to have to have either an admission from him that he overstated the case or we are going to have to have the names of the corrupt, spineless, immoral, anticonstitutional judges that he was referring to so we can get the records and look into this matter immediately. In a country that makes justice and the equal protection of the law and holds sacred life and liberty, we can do no less.

Mr. Speaker, I include for the RECORD the articles to which I referred:

[From the San Francisco Daily Journal, July 18, 1996]

REINHARDT'S LAMENT—DID FEDERAL JURIST'S SPEECH IMPUGN THE INTEGRITY OF OTHER JUDGES?

(By Michael Rushford)

Ninth U.S. Circuit Court of Appeals Judge Stephen Reinhardt was back in the news recently. In a June 4 luncheon address to the Beverly Hills Bar Association, Reinhardt found serious fault with a host of evils that have limited the authority of federal judges and tarnished the image of lawyers generally.

It was not surprising that Reinhardt, who has been characterized in the press as a "crusading liberal judge," would complain about the arbitration industry, cuts in federal funding for poverty lawyers and "intemperate and inexcusable attacks" on judicial independence by politicians (see "Fall From Grace," Forum, June 6). His criticism of O.J. Simpson prosecutors Marcia Clark and Christopher Darden, while a cheap shot, simply added his name to the scores of other pundits who have never prosecuted a celebrity on national television.

But Reinhardt's lament about the impact of newly enacted limits on federal habeas corpus went somewhat beyond bombast. While asserting that the new rules will "prevent federal courts from overturning unconstitutional state convictions," Reinhardt announced, "I have spoken with judges who must stand for election, and I have heard them say that they cannot afford to reserve capital convictions in cases that engender heated community passions."

In making this statement, Judge Reinhardt admitted personal knowledge of the most serious knowledge of the most serious form of judicial misconduct condemning an unjustly convicted defendant to death because of political pressure.

Considering the magnitude of such disclosures, one wonders why Jude Reinhardt did not immediately report the judges who made them to the state authorizes charged with judicial discipline rather than discussing them at a luncheon. In any event, in order to protect hundreds of elected state appellate and Supreme Court justices from falling under suspicion, the names of the judges he has implicated and the unproperly decided cases should be made public.

By not doing so, Judge Reinhardt leads one to believe that either he values the confidence of these unnamed judges more than the Constitution he has sworn to uphold or he has fabricated the whole thing to advance his own political agendas.

In reality, elected state judges, particularly on the appellate courts, have demonstrated time and again that political consideration do not influence their decisions. Examples include the 1992 case of State v. Middlebrooks, where the Tennessee Supreme Court overturned the state's felony murder rule, initially on federal grounds. Later, when the U.S. Supreme Court seemed poised to reverse, the Tennessee court reconsidered, insulating its holding on independent state grounds.

The Wisconsin Supreme Court went way out on a limb to anger voters with its 1992 decision to overturn that state's hate crime law (State v. Mitchell). In 1995 Montana's law prohibiting the use of voluntary intoxication as a defense to murder was (incorrectly) found to violate federal due process by the state supreme court (State v. Egelhoff).

Political pressure certainly didn't play a role in the California Supreme Court's recent decision to void the mandatory sentencing provision of the "Three strikes and you're out" law in People v. Superior Court (Romero).

Examples like these may not matter to Judge Reinhardt. In the interest of elevating the "public standing and reputation" of the courts, he has, in both his written opinions and public statements, attacked the motives and integrity of the U.S. Supreme Court, the state courts, the other branches of government, the electorate and any law or legal precedent with which he does not agree.

In doing so he has shown the public that some federal judges, who are appointed by politicians and serve life terms, feel free to exercise their judicial power to further their political views. Apparently the irony of this is lost on him.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mr. RICHARDSON, for 5 minutes, today.

Mrs. SCHROEDER, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. SOLOMON, for 5 minutes, today.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills, and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 543. An act to reauthorize the National Marine Sanctuaries Act, and for other purposes;

H.R. 1734. An act to reauthorize the National Film Preservation Board, and for other purposes;

H.R. 2579. An act to establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States; and

H.J. Res. 198. Joint resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for President and Vice President cast in December 1996.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes;

S. 811. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes;

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes;

S. 1467. An act to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes;

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes;

S. 1711. An act to amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans Affairs to provide for a study of the Federal programs for veterans, and for other purposes;

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine;

S. 1973. An act to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes; and

S. 2153. An act to designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building", and for other purposes.

ADJOURNMENT

Mr. DOOLITTLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 51 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 3, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5409. A letter from the Secretary of Transportation, transmitting the annual report on the status of the public ports of the United States for calendar years 1994–95, pursuant to 49 U.S.C. 308(c); to the Committee on Transportation and Infrastructure.

5410. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Importation of Fruit Trees from France [Docket No. 94–102–3] received October 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5411. A letter from the Assistant Secretary of Labor for Mine Safety and Health, Department of Labor, transmitting the Department's final rule—Safety Standards for First Aid at Metal and Nonmetal Mines (RIN: 1219–AA97) received October 1, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Economic and Educational Opportunities.

5412. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Protection of Human Subjects; Informed Consent (RIN: 0910–AA60) received October 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5413. A letter from the Executive Director, Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting the Committee's final rule—Additions to the Procurement List [ID #96–005] received October 2, 1996, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5414. A letter from the Chairman, U.S. International Trade Commission, transmitting the third annual report on the impact of the Andean Trade Preference Act on U.S. industries and consumers and on drug crop eradication and crop substitution, pursuant to 19 U.S.C. 3204; to the Committee on Ways and Means.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2740. Referral to the Committee on Commerce extended for a period ending not later than October 4, 1996.

H.R. 2923. Referral to the Committee on Ways and Means extended for a period ending not later than October 4, 1996.

H.R. 2976. Referral to the Committees on Ways and Means, Economic and Educational Opportunities, and Government Reform and Oversight for a period ending not later than October 4, 1996.

H.R. 4012. Referral to the Committee on Ways and Means extended for a period ending not later than October 4, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. RICHARDSON (for himself, Mr. JOHNSON of South Dakota, and Mr. MILLER of California) introduced a resolution (H. Res. 556.) expressing the intentions of the House of Representatives concerning the universal service provisions of the Telecommunications Act of 1996 as they relate to telecommunications services to native Americans, including Alaskan Natives; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2651: Mr. BALDACCI.

H.R. 2734: Mr. SALMON.

H.R. 2900: Mr. FUNDERBURK.

H.R. 3466. Mr. MENENDEZ.

H.R. 3837: Mrs. MALONEY, Mr. TORRICELLI, Ms. BROWN of Florida, and Mr. BALDACCI.

H.R. 4072: Mr. DOOLEY.

H.R. 4092: Mr. WYNN.

H.R. 4105: Mr. SALMON.

H.R. 4170: Mr. PORTMAN.

H.R. 4274: Mr. TORRES.

H.R. 4305: Mr. POMEROY.

H.R. 4334: Ms. NORTON.

H. Res. 510: Mr. BURTON of Indiana.

H. Res. 555: Mr. DEFAZIO, Mr. NEY, Mr. SPRATT, and Mr. WAXMAN.

SENATE—*Wednesday, October 2, 1996*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

God of hope, we need Your vibrant optimism. Our own optimism is like a teabag: we never know how strong it is until we get into hot water. It is in times of frustrations or adversity that our optimism is tested. When the process of human efforts grinds slowly and people disturb our pace of progress, our attitudes are given a litmus test. Often our realism too soon turns to resignation. We expect far too little and receive it. Transform our experienced pessimism into expectant hope. So often we live as if we had to carry the burdens alone. Today we relinquish any negative thoughts to You and receive a fresh infusion of Your hope. Hope through us today, O God of hope. Make us people who are a lift and not a load, a blessing and not a burden. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Good morning, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be conducting a period of morning business until the hour of 2 p.m. this afternoon. Beginning then at 2, the Senate will begin 3 hours of further debate on the FAA reauthorization conference report. In accordance with the previous agreement, a cloture vote will occur on the conference report at 10 a.m. tomorrow morning. I urge all my colleagues to plan their schedules accordingly. This is a very important matter. I hope all Members will be present for this key cloture vote.

Of course, we expect that there is a likelihood that there will be a final vote later on in the day. Perhaps that will wind up being a voice vote, but we have to assume at this point it will be a recorded vote. I hope if cloture is invoked Thursday, the Senate will be able to complete the action certainly in a timely manner.

Senators should be aware that rollcall votes are still possible during today's session on any other legislative matters that are in the clearance process. I hope that we will be able to get some noncontroversial issues cleared. That process has slowed down markedly, but we are still hoping and working so that we can get some done that are supported on both sides of the aisle. We are working on that as we speak.

It is also my hope that an agreement can be reached with respect to the parks legislation. Meetings have been occurring this morning. There is communication underway between Senator MURKOWSKI, Democratic Senators, and the administration. We are hoping that we can add some bills that should have been included in the package that passed the House by an overwhelming margin. Certainly some of those that were knocked out should have been included, and there is no justification for them not being there. We are trying to identify those and get an understanding as to how we will handle it in the Senate and the House and with the administration.

As developments occur and as we clear bills, we will be back to the floor to deal with those.

Mr. President, I have no further need of time, so I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2 p.m. with Senators permitted to speak therein for not to exceed 10 minutes each.

THE OMNIBUS PARKS BILL

Mr. BINGAMAN. Mr. President, I will not take a full 10 minutes, but I would like to speak briefly about this so-called parks bill or Presidio package which is being considered here in the Senate this week and urge my colleagues who are engaged in negotiations on this to come to some resolution so that we can move ahead with this important piece of legislation.

My home State of New Mexico will be greatly benefited if this package of legislation becomes law. There are many provisions in it that I believe would be important to many constituencies around the country.

I notice in the October 1 CONGRESSIONAL RECORD, the RECORD that we received on our desks today, there is a list on page—let us see—it is 26975, a listing of the various titles which are included in the bill. I can honestly say there is probably something in here for every State in the Union. This is a catch-all piece of legislation which is intended to make necessary boundary adjustments and to make necessary provisions for the protection of our public lands in a great many areas. These are noncontroversial provisions.

This is a summary I refer to here, a summary of the legislation that has already passed the House of Representatives. I wish, Mr. President, we could call this legislation up and pass it in the Senate. Today would be a good time to do that while we still have enough Senators here to get a quorum. I could go through and will indicate the various titles.

The first title relates to the Presidio of San Francisco which, of course, has been the reason that the package was designated the Presidio package. The second title is on boundary adjustments and conveyances. The next title is on rivers and trails and exchanges of lands, then historic areas, and it goes on to describe the various administrative and management provisions including the National Coal Heritage Area, the Tennessee Civil War Heritage Area, the Augusta Canal National Heritage Area, Steel Industry Heritage Project, Essex Heritage Area, South Carolina National Heritage Corridor, America's Agricultural Heritage Partnership, the Ohio and Erie Canal National Heritage Corridor, the Hudson River Valley National Heritage Area.

Mr. President, to my knowledge, all of these are meritorious provisions and ones which we should enact before we leave town. I think it would be a great shame if we were not able to do that. This is of particular interest in my home State for several provisions, but particularly there has been a longstanding problem of great concern to the Taos Pueblo which we are proposing to resolve in this legislation.

The Taos Pueblo land transfer provision would transfer 764 acres in northern New Mexico which is now located in the Wheeler Peak Wilderness of the Carson National Forest to the Taos Pueblo, adjacent to the Taos Pueblo.

The area has spiritual significance to the people in the Taos Pueblo. The bottleneck area continues to be used by the Taos Pueblo Indians for religious pilgrimages. The sacred Path of Life

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

Trail, connecting the Pueblo with Blue Lake, runs through this bottleneck. The Blue Lake Wilderness has been a source of spiritual strength to the Taos Pueblo for over 1,000 years. The bill pending before the Senate today is intended to complete the full transfer of the Blue Lake territory to the Taos Pueblo, a transfer that Senator Anderson pursued diligently while he was here representing our State. The bottleneck tract will be returned to its rightful owners under this legislation.

I would hate to see the legislation fail to pass because of a disagreement over some totally unrelated provisions. Again, I urge my colleagues to allow this land transfer in my home State and the many other important provisions in the Presidio package to become law. It is the right thing to do for the people of Taos Pueblo. I hope very much we can take that responsible action before we adjourn this session for this year.

I yield the floor.

UNFINISHED BUSINESS

Mrs. KASSEBAUM. Mr. President, as the 104th Congress draws to a close, I want to spend a few moments discussing what I believe are some important initiatives which are not going to make it into the statute books this year. Although I am deeply disappointed that the many months—and years—which have gone into these efforts have not borne fruit, I am confident that they have taken enough root that they will rise once again in the 105th Congress.

Unfortunately, the list of proposals falling into this category is much longer than I might wish. I will not go through the entire litany, but I do want to set out what I was attempting to accomplish with respect to the Food and Drug Administration [FDA], the National Institutes of Health [NIH], and our Nation's job training programs.

Legislation to reform the Food and Drug Administration, S. 1477, was reported by the Committee on Labor and Human Resources with strong bipartisan support. Members on both sides of the aisle spent long hours in negotiations, and I want particularly to commend the Senator from Maryland [Ms. MIKULSKI] for her unflagging efforts on behalf of reform. Unfortunately, these negotiations failed to produce an agreement which would not be filibustered, and it was therefore not possible to bring S. 1477 before the full Senate.

This legislation was designed to enhance the professionalism, stature, and effectiveness of the FDA. In developing the measure, I was motivated by a desire to assure that our Nation does not lose its leadership in new product development and by a desire to respond to the plight of countless individuals who have suffered needless delays in obtaining new therapies.

Through hearings, meetings, and other reviews of the issue, I concluded that the performance of the FDA could be substantially improved without sacrificing consumer confidence in the safety and efficacy of the products they purchase.

I would like to outline briefly the major principles underlying this legislation, because I believe they are important and should serve as the foundation for any FDA reform measure considered in the future:

First, as I stated, the major purpose of S. 1477 was to enhance the professionalism of the agency, and it attempted to do so by providing a clear statement of the agency's mission and by emphasizing performance standards and accountability.

Second, it attempted to improve the speed and efficiency of the product testing, review, and approval process by encouraging cooperation between the agency and the manufacturer from the very beginning. Too often, all the focus is placed on the back end of the process—FDA approval—without giving sufficient attention to steps which could be taken to improve the process during the many years leading up to that point.

Mr. President, as you know, it can take sometimes as many as 12 years or more before final approval is achieved. We felt strongly in the committee that process could be enhanced without hurting in any way safety, efficiency, and efficacy in order to bring that time span down.

There have been instances where the agency has implemented this type of cooperative approach—for example, with respect to the testing and review of AIDS drugs—and this measure attempted to encompass those practices which have been successful.

Finally, the measure put forward some new options, such as the contracting of review of certain medical devices. The point was not to take FDA out of the picture. The bill maintained the role of the FDA as the final arbiter of safety and efficacy. At the same time, it took steps to assure that, at the appropriate point, the agency does come to a decision.

Scientific methods and technology have changed dramatically over the past two decades, while our regulatory structures have barely budged. An incentive is growing for U.S. companies to move research, development, and production abroad, threatening our Nation's continued world leadership in new product development—costing American jobs and further delaying the public's access to important new products. We can address these issues through sound reform legislation, and we should.

Another important health care matter which deserves priority in the 105th Congress is the reauthorization of the National Institutes of Health. Last week, the Senate approved a reauthorization bill (S. 1897), and I had hoped the House of Representatives would take it up as well. Unfortunately, that will not happen.

As a consequence, we have lost—for the moment—an opportunity to reaffirm the importance of the biomedical research mission of the NIH and to enhance the effectiveness of the agency in performing that mission.

All Americans can take great pride in the exceptional contributions that the NIH has made. It has compiled an astonishing record of biomedical research advances which have transformed all of our lives. Vaccines against conditions which once crippled and killed are now routine, and drugs hailed as miracles at their inception are as well known as aspirin. These past successes against seemingly insurmountable odds have inspired confidence and offered hope to those who have nowhere else to turn.

In addition to reauthorizing the important work of the two largest institutes—the National Cancer Institute and the National Heart, Lung, and Blood Institute—the reauthorization bill approved by the Senate attempted to strengthen the ability of the NIH to respond to emerging issues in the biomedical research arena and in the larger health care environment in which it operates.

Among other things, this legislation authorized the creation of the National Human Genome Research Institute, in recognition that one of the biggest future frontiers is that of the human genetic code. The elevation of the National Center for Genome Research to institute status would serve to better focus NIH resources for this important work.

It recognized the need to invest in the education and training of the next generation of clinical researchers by providing for greater support for expert training of young biomedical scientists who have elected the difficult, and frequently less well-compensated, careers in scientific inquiry.

The bill streamlined the excess and often duplicative infrastructure that has grown up over time in the NIH. Every dollar saved from unnecessary administrative burdens is another dollar freed up for support of biomedical research.

It established a framework under which additional sources of funding could be tapped by creating a biomedical research trust fund within the Treasury.

This legislation included a significant initiative in the area of Parkinson's disease research. Based on separate legislation with broad bipartisan support in both the Senate and House, this initiative would establish up to 10 Morris K. Udall Centers for Research on Parkinson's Disease and provide for awards to neuroscientists and clinicians to support innovative research.

Turning to other issues before the labor committee this year, I think perhaps my greatest disappointment is the demise of the Work Force and Career Development Act. I say it is the greatest disappointment not only because its failure is a lost opportunity to bring about significant reform in an area where reform is sorely needed, but also because we came so close to achieving it.

This is not a bill which died in committee. It was not killed on the Senate floor; in fact, just about a year ago it was adopted by a vote of 95 to 2. It did not die in the House, where its companion measure was adopted with overwhelming bipartisan support.

This initiative, which has its roots in legislation I introduced with the Senator from Nebraska [Mr. KERREY], in the 103d Congress, moved step by step through the legislative process. Yet, the conference report, which was filed on July 25, has been sitting gathering dust due to the threats of dilatory action should it be called up.

I have addressed the Senate on many occasions regarding the need for fundamental reform of our Nation's job training programs. I think reform is absolutely essential if we are to provide the skilled job training which can best address the needs of the people in each of our States, because what might be necessary in Kansas might be very different in Alabama or in South Carolina. As I have mentioned before, the roughly $5 billion which the Federal Government invests in job training and related programs is small potatoes in our annual trillion-dollar-plus budget. Most probably feel, I think, that this is a boring subject and ask why should we focus our attention on this. It doesn't grab headlines. But if we wish to make welfare reform work, if we wish to provide a work force for the next century that is going to meet the challenging demands of developing new technology, we have to be more flexible in letting States design good job-training programs. I just worry, Mr. President, that by maintaining the status quo, we are saying that we are willing to live with inadequate programs and that we are not willing to step forward with the innovative ideas that I think are important, and that I believe the American people think are important. These are ideas that will help assure that Government spends money more effectively and wisely.

I contend that it is a travesty to continue to allow these billions of dollars to be thrown away on programs where good intentions are not sufficient to produce good results. We don't even have the data to know what works and what doesn't work.

That is what the Work Force and Career Development Act is all about. It would consolidate narrowly focused Federal categorical programs into a comprehensive statewide system—offering States the flexibility they need to focus resources where the need is greatest. It would encourage the development of true partnerships among educators, trainers, and the business community. And it would focus on getting results.

Many forces in our society are raising the stakes for the effective performance of job training programs. Technology has transformed the marketplace and the skills which employers seek from their employees. The recently enacted welfare reform legislation places a premium on job placement and retention.

My biggest regret at the failure to bring about job training reform is the fact that those Americans most in need of quality programs which have to continue to muddle their way through the current morass, will have to continue to be shuttled from one program to the next, our not knowing for sure what will work and where they will be able to find the answers they seek. I think it is a disappointment and a shame, our not being able to address the conference report before this Congress closes.

There are other reform efforts as well which I believe could have made Government programs work better. The Senator from New Hampshire [Mr. GREGG] and I developed legislation to reform the Occupational Safety and Health Administration [OSHA] in an effort to place greater emphasis on improving safety education and less on imposing fines for trivial violations. I worked with Representative J.C. Watts on the Youth Development Community Block Grant Act, an effort to consolidate scattered youth development programs into a locally controlled system of positive prevention activities.

A recent edition of Roll Call mentioned the interest of the majority leader in spending more time overseeing existing programs, rather than creating new ones. I wholeheartedly agree. We do a disservice to the American taxpayer to add to Federal obligations while ignoring the performance of those we have already made.

The process of oversight and reform is a long one. It does not happen overnight or even over the 2-year course of a Congress. I would like to think that the work which has gone into the initiatives I have mentioned today will make a contribution to efforts to be undertaken next year and the year after that. Although I will not be here to shepherd these initiatives through their next phases, I have confidence that they will flourish under the care of those who follow.

Mr. President, this is the last speech I will give on the Senate floor. I would just like to say it has been a great honor to represent the State of Kansas. I want to say a special thanks to my colleague from the State of Alabama, Mr. HEFLIN, who will be retiring in this Congress. It has been an honor to serve with him. I thank my colleagues and my staff and the support personnel. It has been a pleasure to serve with them for 18 years.

I yield the floor.

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

CHALLENGES FOR THE FUTURE

Mr. HEFLIN. Mr. President, as America heads into the next century and millennium, it is crucial that a serious reevaluation of our role in the world occur. Our role in the world will largely be dictated, at least for the foreseeable future, by the fact that our Nation is the sole remaining superpower. This role carries with it added responsibilities with regard to international and even more localized foreign disputes.

In reevaluating our role as the sole superpower, there are some restraining factors that must be part of the equation.

The lessons of Vietnam, Korea, and Beirut, as they relate to public support, cannot be dismissed. We have to consider the attitudes of the population in this country if we are to pursue action in places like Bosnia. A key question is how many human casualties the public will tolerate. Will the public support the mission and to what degree will it be supported? The media is a key element, since it has a tremendous capacity for creating sentiment for or against a particular policy. Our role might increasingly be ad hoc in nature. Public attitudes are a potential internal threat that can't be dismissed. There is a strong feeling that America cannot be the world's policeman. There is a vocal sentiment of limited quasi-isolationism among many that can't be dismissed, and it has the potential to grow. The question of how best to manage this sentiment is important to the conduct of our foreign policy and in assessing our role in the world.

Scarce and limited resources on the part of our national government will also be a major determinant of our foreign policy. We are living in a world of shrinking government action. Both major political parties acknowledge this reality. It is a reality based upon budgetary constraints and a desire for less government, and dictated to some degree by the competition between domestic and foreign policy needs.

We have already seen over the last few years a tendency on the part of our allies to look to us for leadership and to put out fires. Our leadership of the NATO operations in Bosnia is a stark example. In this war-torn region, we have seen not only armed battles, but rape, torture, murder, and genocide. As a society which stands against such evils, we will be called upon to intervene. Budgetary constraints will continue to require a reevaluation of our

role as a world policeman and as the rewarding arbiter of international disputes in places like the Middle East, Northern Ireland, and other areas.

A key part of the reevaluation of our role as a solver of conflicts will also be the reevaluation of our role in world disarmament as well as an arms merchant. As we rightfully pursue disarmament and restraints on the sale of arms, we must strive to retain a sensible balance and not go too far. A root cause analysis will serve us well; it is obvious that not much serious fighting takes place between two parties if there are no arms. Our own security, in the light of more ambiguous threats and potential terrorism, will continue to be paramount. Military technology and the feasibility and need of such programs as SDI will continue to demand attention. These questions will not recede just because the direct threat from a competing superpower has receded.

We must not only look at our role in securing human rights around the world, but also to the commercial and business opportunities in Asia, Africa, and Latin America, as well as in the former Warsaw Pact nations. Our international trade policies are important components of such development.

As far as our trade policy and how it affects our own citizens, we must carefully look at our trade deficits and how they will affect America's jobs if not reduced. There should be little doubt that many of our traditional jobs are going overseas or across borders. While new service jobs are being created, there is the increasing danger of a growing gap between the wealthy and, on the other hand, the economically disadvantaged and poor and a narrowing of the middle class. There is no question that Japan has emerged as a world economic power because of its successful trade policies. It is no secret that one learns from the successful. So far, we have not learned from Japan or come close to duplicating their success. What can be learned from them in making our own policies more beneficial to our national interests is an important question. One key component of their successful policy is that the corporate sector does not view the government as the enemy.

Another challenge will be the role of NATO in European security and outside Europe. It is currently being seriously reevaluated. The alliance's expansion by the end of the century appears to be a foregone conclusion. What will the exact mission of an expanded NATO be in the next century? In order to avoid some of the problems experienced by the United Nations, particularly in the "peacekeeping" realm, its mission will have to be reevaluated meticulously, defined precisely, and articulated forcefully. The Pacific Rim, a rapidly expanding area of trade, development, and expansion, is also one of potential security threats. The lessons of China's influence in the Korean and Vietnam conflicts must not be forgotten. Possible East Asian alliances, as well as our understanding of East Asian motivations, are puzzling and wrought with dangers. Considerable thought, patience, and insight must be given to security threats and trade relationships. The issue of whether NATO could or should be used outside Europe—even if the consent of the member nations were obtained—will be paramount. The role of the United Nations is a major component of this issue, particularly in view of China's veto in the U.N. Security Council. We know the future will continue to yield technological advances that we have not even thought of today. This is true both in terms of domestic and international policy. A renewed commitment to research and development will be crucial in keeping pace with the rest of the world. Think about the Internet and how it has already changed the ways in which we receive, transmit, and exchange news and information. This will only increase in the next century. Our space program has yielded some of the greatest benefits our nation has ever realized. Its bi-products have helped lead to advances in health care techniques. We must commit ourselves anew to NASA and its mission. We must help citizens see the direct links between advanced science and research and their relevance to their daily lives. How many unforeseen research triumphs are waiting to be realized in the next century?

Here at home, the delivery of health care is still a great concern to many of our citizens. As the National Institutes of Health and other government and private entities continue to increase the average life span of our population, the demand for health care services will only increase. The costs will rise. Access will continue to be an issue. We must evaluate these strains on the system and whether or not we will be able to meet the needs of a rapidly growing portion of the population that cannot partially or entirely meet the cost. There is still a consensus that reform is needed; still, after all the debate and controversy, we don't yet know what policy to pursue. The Kennedy-Kassebaum bill is a good first step, but only a first step.

The rising costs of higher education must be reevaluated. As college-level study and training become increasingly necessary to succeed in today's and tomorrow's complex world, what can be done about the rising cost? A huge percentage of a family's income goes toward educating its children, even at public institutions. How much can families realistically afford before talented, bright young people start falling through the cracks? Will it be the responsibility of the government to provide a safety net? How will government assistance programs have to be changed to meet increased demand?

Our success at meeting these many challenges and the many others that face us depends upon how serious we are in our evaluation of them. Perhaps as much as any time in history, our future success will depend on how hard we work, how thoughtful we analyze these challenges, and how serious we are in building partnerships for moving the country forward.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS-CONSENT REQUEST—S. 2187

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2187, which was introduced earlier today by Senator BROWN.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there objection?

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ASHCROFT addressed the Chair.

Mrs. BOXER. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Senator from Montana has the floor. Does the Senator yield the floor?

Mr. BURNS. We withdraw it.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. I want to make it clear that I have no objections to proceeding, and I regret that objection has been heard on this matter. I have released all holds that I had on legislation and regret that this matter cannot move forward.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

UNANIMOUS-CONSENT REQUEST—H.R. 3560

Mrs. BOXER. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 3560 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BURNS. On behalf of some Members on this side of the aisle, we object.

The PRESIDING OFFICER. Objection is heard.

Mrs. BOXER. Mr. President, if I might say, H.R. 3560 would designate the Ronald H. Brown Federal Building in New York, and we are very hopeful we can do this in his memory today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the quorum call be dispensed with and that I may address the Senate.

The PRESIDING OFFICER (Mr. ASHCROFT). Is there objection to the suspension of the quorum call? The Chair hears none, and it is so ordered.

Mrs. BOXER. Mr. President, in deference to the chairman of the Armed Services Committee, I would be happy to yield if he wished to address the Senate prior to my comments, which will take about 10 to 15 minutes. I will be delighted to step aside and allow him to speak if that is his wish.

Mr. THURMOND addressed the Chair.

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

TRIBUTE TO SENATOR MARK HATFIELD

Mr. THURMOND. Mr. President, the U.S. Senate is an institution that has benefited greatly from the service of a number of individuals who have dedicated their adult lives to government. Among that group, one person in particular stands apart as a man of great intelligence, conscience, and contemplation, MARK O. HATFIELD of Oregon.

MARK HATFIELD arrived in Washington in 1966 well prepared to not only take his seat in the world's greatest deliberative body, but to almost immediately begin helping to shape and influence debate in this Chamber. Ever since his 1943 graduation from Willamette University, MARK HATFIELD has either studied, taught, or served government. During World War II, MARK donned the khaki uniform of a naval officer and participated in some of the most brutal campaigns we fought against the Japanese. After the war, MARK returned to school and earned a master's degree in political science from prestigious Stanford University. Following his time in Palo Alto, the young veteran and scholar returned to Willamette University where he taught political science and held the position of dean of students.

It was during his time at Willamette that MARK became active in politics, running for, and being elected to the Oregon House of Representatives in 1950. This was to be the beginning of a career in elected office that would take him to the Oregon State Senate, the Governor's Office, and ultimately to the U.S. Senate, where he has served for three decades and is Oregon's longest serving Senator.

During his tenure in this body, Senator HATFIELD has worked hard for his constituents, has fought for his beliefs, and has worked to make our Nation an even better place. He has been the architect of any number of legislative initiatives that sought to protect and expand wilderness areas in the Pacific Northwest, ensuring that this and future generations will forever know the majesty and beauty of that region. Additionally, he worked hard to help promote business in his State, and his efforts undoubtedly helped to make Oregon an important part of the dynamic international economy known as the Pacific rim.

Mr. President, I have always had the upmost respect for my colleague from Oregon. In his 30 years in the Senate, he has always voted his conscience and has done what he felt was in the best interests of the United States of America. One can only admire a man who places such a value on integrity. Indeed, MARK HATFIELD is a man of integrity, ability, and dedication, and we commend him for the great service he has rendered this Nation. I know that Senator HATFIELD will be greatly missed by all those who have served with him, and his successor will have to work hard to match the commitment made by this scholar and Senator. I know that all the Members of the Senate wish our friend MARK good health and great happiness in the years to come, and I am certain that he will excel at whatever endeavor he undertakes upon his retirement.

TRIBUTE TO SENATOR NANCY KASSEBAUM

Mr. THURMOND. Mr. President, I rise today to pay tribute to Senator NANCY LANDON KASSEBAUM, a leading lady of the Senate and one of the finest to ever represent the State of Kansas in the U.S. Congress.

Senator KASSEBAUM learned politics the old fashioned way at the knee of her distinguished father, Alf Landon, Republican Presidential nominee and Kansas Governor. She eventually followed in his footsteps to serve the State of Kansas in an exemplary and excellent manner.

In the early years she was a wife and mother, rearing four fine children, and then serving as a Senate staffer, before being elected to the U.S. Senate on the Republican ticket in 1978.

Senator KASSEBAUM brought to this body a keen interest in social issues, focusing on areas near and dear to her—the family, children, and education. Today, as chairman of the Committee on Labor and Human Resources, she has been able to affect greatly legislation in connection with her agenda in these and other important arenas.

On a broader scope, her work on the Committee on Foreign Affairs has been noteworthy and knowledgeable, especially her work on foreign aid and African issues.

Not only is she an able legislator, but she is a person of character, intellect, and dedication. She is truly a lady in every sense of the word, and what I believe we would say today "A Class Act."

Her sense and sensibility will be missed in the Senate, and her wit, grace, and style will long be remembered.

On a personal note, we are proud to claim NANCY KASSEBAUM as an honorary citizen of South Carolina. Her outstanding son, John, an attorney, is a resident of Charleston, and he had the good fortune and good taste to marry a lovely South Carolinian, Elizabeth Williams Kassebaum. They have two handsome children. Now that NANCY is retiring, we hope she will spend even more time in our State, where she is greatly admired.

The U.S. Senate is a better place because of NANCY LANDON KASSEBAUM, and her shoes will be hard to fill. She spoke softly, but wielded a big stick when standing up for her beliefs and principles. Her character was sterling and she has left a rich heritage for the future worth its weight in gold.

We shall miss her, and in the words of the Bard, "We shall not see her likes again."

RETIREMENT OF SENATOR HOWELL HEFLIN

Mr. THURMOND. Mr. President, I rise today to pay tribute to my good friend, Senator HOWELL HEFLIN, known by many of his colleagues and friends as "the Judge," who, regrettably, is retiring from the Senate.

On November 2, 1978, the U.S. Senate gained one of the most respected, intelligent and able Senators in HOWELL HEFLIN. HOWELL grew up as a son of a Methodist minister, and was educated at Birmingham Southern and the University of Alabama Law School. With a J.D. Degree in hand, he practiced law with wide recognition as a noted trial attorney, gaining numerous honors and awards among law societies and associations.

During his career, HOWELL has made many important contributions to our great Nation. In addition to being an attorney, HOWELL served as Chief Justice of the Alabama Supreme Court prior to his election to the Senate, and he brought to the Senate an extensive knowledge of the judicial process. During his tenure as Chief Justice, "the Judge" brought about an unprecedented judicial reform package for his State, which has been hailed as a model for the Nation and has been studied by numerous other courts throughout the United States. This extensive knowledge and background made HOWELL HEFLIN a natural candidate to serve on the Senate Judiciary Committee. For years we have served together on this committee, and have worked closely on a number of judicial reform initiatives and measures to fight crime and drug abuse. The members of the Judiciary Committee who have worked with HOWELL have undoubtably benefited from his insight on judicial matters.

As with many southern States, agriculture plays an important part in Alabama's economy, and in addition to his commitment to judicial issues, HOWELL has an equally strong interest in agricultural concerns. He has been called the spokesman for southern agriculture by the Associated Press, and makes his fight for farmers a national priority.

Senator HEFLIN, a former Marine who served in World War II, has a special interest in a strong national defense. His work with President Reagan on the Strategic Defense Initiative, and cooperation with President Bush on defense matters demonstrates his nonpartisan spirit and his commitment to the security of this great Nation.

Throughout his Senate service, HOWELL has maintained his Alabama roots and applied his down home, southern values of common sense and level headedness to his work in the Senate.

I have great respect for Senator HEFLIN's commitment to his work, his integrity, as well as his dedication to his constituents and to the United States of America. As he heads home to Alabama, I wish him well in his retirement, and trust that he will enjoy many years of health, happiness, and spending more time with his growing family.

TRIBUTE TO SENATOR WILLIAM S. COHEN

Mr. THURMOND. Mr. President, I rise to pay tribute to Senator WILLIAM S. COHEN, who is retiring at the end of the present year.

When one thinks of New England, many images come to mind. Lighthouses on rocky points, lobster and clam bakes on beaches, and men and women of few words but great wisdom. Our colleague from Maine, WILLIAM S. COHEN, is just one such person, a well-educated, well-read man with an impressive background in government who has done much to benefit our Nation.

Senator COHEN began his life in public service as an assistant county attorney for Penobscot County, and later went on to serve on the staff of the Governor of Maine's State Credit Research Committee. This experience in the public sector sparked BILL's interest in a career in elected office, and it was not long before he held a succession of local positions beginning with city councilor for Bangor, followed by mayor of that same locale. Soon BILL turned his attention from the responsibilities of a local official to the challenges that a seat in the House of Representatives presents, and in 1972, he was elected to Congress. For three terms, BILL represented the people of his district faithfully, but in 1978, he felt that he could better serve his State and Nation by being a U.S. Senator, and he was elected to the first of what would be three terms.

During his tenure in this body, Senator COHEN has served on both the Armed Services Committee and the Committee on Intelligence, working hard on a number of issues of great importance to the defense of the Nation. As the chairman of the Armed Services Committee, I can say without question that BILL approaches his responsibilities with great seriousness and purposefulness of mind. We have all benefited from the contributions he has made to the security of the United States and are grateful for his efforts.

I hope that BILL leaves the Senate with fond memories of his time here and a sense of accomplishment for his efforts. Knowing BILL, upon his retirement, he is going to pursue endeavors that will be interesting and challenging, and no matter what he undertakes, I am sure that he will enjoy great success. I have been pleased to serve with my good friend from Maine, and I wish him all the best in the years ahead.

TRIBUTE TO SENATOR HANK BROWN

Mr. THURMOND. Mr. President, I rise to pay a tribute to Senator HANK BROWN since he is retiring at the end of the current year.

If there is one image that people around the world have of a Westerner, it is that of an independent man or woman who rides tall in the saddle, stands up for what he or she believes is right, and is a person of great practicality and common sense. Without question, these are the type of attributes that one finds in our friend and colleague, HANK BROWN of Colorado, who is bringing his career in Congress to a close.

Though a Member of this body for only one term, Senator BROWN is no stranger to Capitol Hill as he served for 10 years in the House of Representatives. Throughout his tenure in both Houses of Congress, he demonstrated a commonsense approach to the issues before the Nation. As a conservative, he took a hard line against Government waste, an excessive Federal budget, and efforts by bureaucrats and environmentalists to impede the rights of land owners, ranchers, and those who seek to harness the riches of the West.

I had the good fortune to serve with HANK on both the Committee on the Judiciary and the Veterans' Affairs Committee over the past 6 years, and his commitment to his work and to serving the Nation impressed me greatly. Without question, my colleague from Colorado approached his duties seriously and sought to represent his constituents as best he could. As a veteran of the Vietnam war, HANK was especially sensitive and knowledgeable concerning issues that came before the Veterans' Affairs Committee, and he worked hard to ensure that America never forgets those men and women who have sacrificed so much to protect the interests and ideals of the United States. I have no question that should HANK BROWN have chosen to stand for reelection, the grateful voters of his State would have easily and overwhelmingly returned him to office.

Mr. President, in a case of life imitating popular lore, HANK BROWN is going to saddle up and ride west into the sunset at the end of the 104th Congress. As he makes his journey back to his home State with its glorious Rocky Mountains and crystal clean air, he can reflect on a distinguished and well respected career in the U.S. Congress. In the course of almost two decades, HANK worked hard to forge compromises, reach agreements, and to fight for what is right. His efforts benefited the people of Colorado and the United States, and his presence will certainly be missed in this Chamber. Some say that HANK may run for Governor, and if that is the case, the Mile High State, will be in good hands, but regardless of whether or not our friend seeks that office, we commend him for his service to the Nation and wish him great success in the years to come.

TRIBUTE TO SENATOR SHEILA FRAHM

Mr. THURMOND. Mr. President, I rise to pay a tribute to Senator SHEILA FRAHM, who is retiring at the end of the current year.

Many of our colleagues will be leaving us at the end of the 104th Congress. Some of these people have been here for decades, and some for only a very short time. Today, I rise to pay tribute to one Member of this body whose service has been brief, but in no way less than sterling, Senator SHEILA FRAHM of Kansas.

Senator FRAHM joined us just this year after being appointed to the seat vacated by the resignation of the former majority leader, Bob Dole. SHEILA FRAHM came to this position well prepared to carry out its duties as she held a number of important offices during her years in State government, including that of Lieutenant Governor.

I came to know Senator FRAHM through her membership on the Senate Armed Services Committee. I was impressed by the determined manner in which she took her duties and responsibilities as a member of the committee. She worked hard in an attempt to make informed and considered decisions on the matters that came before us and were critical to the defense of the United States. It would have been easy for someone in her position to simply bide her time until the end of the Congress, but I think Mrs. FRAHM knew that the men and women of the "Big Red One" at Fort Riley, KS, and that soldiers, sailors, airmen, and marines throughout the world were grateful for her excellent service.

Mr. President, Senator FRAHM will leave this Chamber at the end of the 104th Congress and return to her native Kansas. Though the duration of her service was short, it was critical. SHEILA FRAHM can be proud of the contributions she made to governing of the United States and we will certainly be sorry to see her go.

TRIBUTE TO SENATOR J. BENNETT JOHNSTON

Mr. THURMOND. Mr. President, I rise to pay a tribute to Senator J. BENNETT JOHNSTON who is retiring at the end of the current year.

As we all know, the South is a region that is rich in heritage and tradition, and one of its most time-honored practices is returning people to Congress year after year in order to build up power and seniority. For the past 24 years, J. BENNETT JOHNSTON has served his native State of Louisiana tirelessly and selflessly, and in the process, has gained great influence in the Senate, which he has masterfully used for the betterment of his constituents and his State.

First elected to the Senate in 1972 BENNETT JOHNSTON set immediately to work in behalf of the people who had sent him to Washington. He secured positions on several important committees, including the Committees on Appropriations, and Energy and Natural Resources, that were especially beneficial to the economy and people of Louisiana. For the next twenty-four years, Senator JOHNSTON dedicated himself to his efforts in this Chamber, accomplishing many significant things, including helping to create new jobs for Louisiana, spurring economic development in his State, helping to provide for the defense of the Nation, overseeing the creation of national parks and refuges in the Sportsman's Paradise, and having a significant role in the shaping of America's energy policies.

Mr. President, as many of our colleagues are doing this year, Senator JOHNSTON has decided to retire from this body. After more than two decades of commendable service, nobody can fault our friend for feeling his work here is done. As he heads back to Louisiana, BENNETT can take pride in his many accomplishments and the exemplary manner in which he has worked to make Louisiana and the United States better and stronger. Unquestionably, he is a man of integrity, ability, and dedication and we all appreciate the great service he has rendered this Nation. I join my colleagues in wishing him good health and great happiness in the years ahead.

I also wish to commend BENNETT's wife, Mary, for the great service she has rendered to the U.S. Botanical Gardens here in Washington. Additionally, she is involved in many activities that benefit our Nation and her native State including being an advocate for immunization and historical preservation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I revise my unanimous-consent request of a while ago so that, before commencing my 15 minutes, the Senator from New Jersey be given 15 minutes.

The PRESIDING OFFICER. Without objection, the Senator from New Jersey is recognized for 15 minutes to be followed by the Senator from California for up to 15 minutes.

ON MY RETIREMENT

Mr. BRADLEY. Mr. President, I always preferred moving to standing still. As a small forward with the New York Knicks, as U.S. Senator from New Jersey, I think I have had two of the best jobs in the world. Each kept me on the move, each offered a unique perspective on America, and in each there came a time to go.

Tomorrow, the Senate will probably adjourn and in a few months I will be leaving the Senate. I believe that U.S. Senator is the best elective job in the world. I thank the people of New Jersey who gave me their votes and their trust; each of my three senatorial races drew me closer to them and forced me to grow in new and different ways. Election day is democracy's most intimate and important ritual. For all the polling and media and political strategy, I believe that there is an essence in any campaign that conveys the bond between the candidate and the electorate on that particular election day. Ultimately, it is the bond that determines the outcome.

For nearly 17 years, almost 18 years now, my most memorable moments have come from the people that I have met. I thank those New Jerseyans who told me their stories through their letters and during our encounters along the shore, at commuter terminals and diners and town meetings and countless other settings. It is from the stories of people's lives that I have been moved and that I gained hesitancy about universal solutions. It is from their stories that I saw what a small role Government plays in most people's lives and, paradoxically, it is where I felt the impact of decisions taken here in Washington. I have received much more inspiration, insight, and good cheer than I could ever say. They reminded me daily of the resilience and the power of the human spirit.

Their New Jersey stories gave me substance and emotion, and lent both substance and emotion to abstractions about democracy. Now each of their stories has become a part of my own story. I have tried to listen to those I serve while using judgment that I believe they elected me to exercise. Sometimes they vented their anger and frustration, and just by my listening, they seemed to feel better. I have included young New Jerseyans in my activities as a Senator because democratic participation must burst forth anew in each generation, like flowers in the spring. Unless the seeds are watered there will be no blossoms.

I have paid attention to the religious community in my State because I believe the right policy always starts with the right values. I have respected those who disagreed with me, especially when they took time to write long letters detailing their disagreements.

Flying north from Washington in a small plane as the Sun is setting, you reach a point where the sunlight on the Delaware River turns it into a metallic-looking band extending all the way up from Trenton to the Delaware Water Gap. And there, lying before you, is the New Jersey Peninsula, bordered on the west by the Delaware River and on the east by the Atlantic. New Jersey offers unexpected beauty, it gives surprising economic opportunity and reveals vital human diversity.

I have achieved greater understanding of the world with all its mixture of religions and ethnicities by simply representing New Jersey. I have become deeply attached to the Jersey shore, to the mountains of the northwest, the flat farmland of the south, and even to certain places on the Garden State Parkway and the turnpike. These New Jersey places have rooted me and given my life a sense of permanence. It has been an honor to represent our State in the U.S. Senate.

I was not in an elective body before coming to the Senate. I had no frame of reference. And in the early months, I remember sitting in the Cloakroom one night late around 2 a.m. and looking around at my fellow Senators in that Cloakroom. One was reading, and one was pacing, and one was telling a joke, and one was sitting quietly, and one was arguing. I thought to myself, "This isn't a lot different than the Knicks locker room." In fact, it isn't. Both team play and successful legislating are about getting different people from different backgrounds with different personal agendas to come together and agree on a common objective, and then work toward it.

During my time in the Senate, I have tried to balance the private interests and the public interests, the rights of property owners and the needs of society, the big players and the forgotten players. I haven't always pleased everyone, but I have tried to be consistent on the big issues, such as economy, race, America's role in the world.

I have also tried to take the long view, often passing up an occasional headline, to make sure when I spoke I knew what I was talking about. Questions of structure, whether on taxes or

trade or the environment, always interested me more than issues of marginal gain or questions of blame or strategies for partisan political advantage.

I am saddened on occasion when the media and politicians ourselves convey that politics is mean, cheap and dirty; that what we hold in common as Americans is somehow less than what we harbor in our hearts and minds as individuals. I have never believed that.

Commentators have remarked that so many Senators are leaving this year that somehow the Senate will have lost its moderate pragmatic center. I strongly disagree with that. Many talented Senators with distinguished records are leaving, but the Senate remains, and power in the Senate rests in the middle. Future Senators will be no less interested in exercising power than do those who are departing. Therefore, they will head to the center where knowing what you are talking about, listening carefully, seeking common ground are the winning attributes. The Senate does not reward extremes of either right or left. It rewards competence.

It is not possible, though, to sum up my 18 years in the Senate in a few words, particularly when I recently took 427 pages to do it in a book. But above all, the Senate is a human institution, shaped by the talents and values and personalities of the Senators who are here at any one time. I owe much to those fellow Senators over the years, to mentors, such as Scoop Jackson and Russell Long, to my able New Jersey colleague and good friend, FRANK LAUTENBERG, to ROBERT BYRD, to PAT MOYNIHAN, to Jack Danforth, to AL SIMPSON, to BILL COHEN, to DICK LUGAR, to NANCY KASSEBAUM, to PAUL SARBANES, to George Mitchell, to WENDELL FORD, to Tom Eagleton, to DAVID PRYOR, to HOWELL HEFLIN, to SAM NUNN, and many, many others.

Over the years, I have been lucky to be assisted by competent staff in ways that are important for a Senate office. I always regarded the newest intern in the mail room to be as relevant to the mission of representing the people of New Jersey as the most senior legislative aide. All of us were here for the same purpose. I gave my trust to many, many members of my staff during my 18 years, and they honored that trust. They represented me in countless meetings with other Senate and House staffers and appointees of four administrations. They always made sure I had the information I needed to be prepared, they amplified my voice, extended my reach, they knew my values, and used their own creativity to serve those same values.

The nature of a good Senator-staff/staff-Senator relationship lies somewhere between the realms of family and team, with the mutual caring and sense of purpose that we expect respectively from each. I am grateful to those "family" members and "teammates" who have enriched my time in the Senate with their intelligence, humanity, sense of humor and, above all else, hard, hard work.

We didn't win every battle with the bureaucracy on behalf of individual New Jerseyans, but we held our own and, in the process, gave Government a little more of a human face. We didn't adopt every amendment we wanted, but we were in the game, right there in the center, in the middle, where power is exercised and accomplishments accumulated in the U.S. Senate. By and large, and above all else, I believe those who served on my staff took public service seriously and believed they could make a difference in the life of our State and our Nation, and I believe we have.

So, Mr. President, I am leaving the Senate, but I am not leaving public life. The quest for a decent life and good wages for all Americans is shaped by many influences that work on many levels. The imperative to engage the world flows through many channels; the fight for justice occurs in many places.

I will continue to speak out and call it like I see it on race, on America's role in the world, on the economic plight of the middle class and the poor, and on the need for thoroughgoing reform that will remove special interest from elections and reduce their influence on Government. In the coming years, I will not lessen my efforts. To the contrary, I will increase them.

So, as I leave the familiar surroundings of the U.S. Senate, I don't know what the future will bring, but I recall the words of Robert Frost:

The woods are lovely, dark and deep.
But I have promises to keep,
And miles to go before I sleep;
And miles to go before I sleep.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from California.

Mrs. BOXER. Mr. President, before the Senator from New Jersey leaves the floor, I just want to thank him for coming to the floor to really put before us a very moving tribute to the Senate from the perspective of one great Senator. As he mentioned those greats that he looked up to when he came to the Senate, on the day that I leave here—and, of course, you never know if it is going to be voluntary or if it is going to be something you plan, as the Senator planned his departure—but whatever day that is for me, Senator BRADLEY's name will be on my lips.

I think he has just the right combination of hope and realism and intellect and heart and courage.

You will be missed, I say to my friend. For me to have had the privilege, in too short a time really, to work with you on environmental issues and children's issues, campaign finance, and other important legislation, I have always looked to you for leadership and for guidance. You do have many, many miles to go before you even take a nap, let alone sleep. Every one of us in the U.S. Senate—and really all the people in the country—I know I speak for California when I say—you are a hero to so many of my constituents—that we wish you well from the bottom of our hearts, and we look forward to working with you. I know I certainly do.

HONORING RON BROWN AND TED WEISS

Mrs. BOXER. Mr. President, when Senator BRADLEY spoke and he said he believed that this Senate would continue forward despite the fact that so many fine people on both sides of the aisle are leaving, it occurred to me that he is right, that the incredible strength of our democracy is the fact that we move forward. When there is a void to be filled, somehow, even though you think it never will be—and it may take more than one person to fill the void of one person's departure; it may take three, it may take four—I just hope that we will all read the comments of the Senator from New Jersey, because one point he made is that he tried to stay away from the meanness of it all that we sometimes face.

I hope in that spirit we will in fact pass two bills that were just objected to by the majority, one to rename a Federal building in New York after Ron Brown and one to rename a Federal building in New York for Ted Weiss. Both of these men served their country so well.

Ron Brown, as Secretary of Commerce, did so much in his lifetime to move forward the cause of economic justice and to bring prosperity to all the people of this country. He died serving just that cause, that human cause. He died in a tragic plane crash with some other quite wonderful people. It seems to me we ought to come together as Democrats and Republicans and make this tribute to him and to his family.

Ted Weiss, someone I served with for 10 years in the House of Representatives, the toughest fighter for health care for those who need it. The people of New York want to remember Ted this way. We ought to come together and make that possible.

THE OMNIBUS PARKS BILL

Mrs. BOXER. Mr. President, we ought to come together on this omnibus parks bill that is so important to 41 States. It seems to me that when the House sent us over a bill which passed virtually unanimously—I think it had four or five or six opposing votes—that was a statement that the controversial

projects were dropped from the parks bill.

If Republicans and Democrats in the House could come together on a parks bill, my goodness, why cannot we bring it up here and get it done? The majority leader says he wants to get it done. I have no reason at all to doubt that. But I must say, Mr. President, that I understand the rules of the Senate. I know it is in his hands to bring this bill before the U.S. Senate. He has chosen not to do that. If he had brought this bill up like he did the FAA bill, we could have filed a cloture motion. Mr. President, I daresay we would have had 70, 80, maybe 90 votes in favor of bringing debate to a close and passing that parks bill.

How do I know this? Well, for one, I have spoken to most of my colleagues individually. I know that every single Democratic Senator is in favor of this bill, and I know that the vast majority of Republican Senators are in favor of this bill.

Forty-one States. Alabama has two important parks projects in the bill, a historic trail designation and funding for a historic black college. Alaska has 10 projects included in this bill. Arizona has four. Arkansas has two. California has 17. Colorado has nine. Florida has one. Georgia has two, Hawaii has one. Idaho has five. Illinois has two. Kansas has two, including the Tallgrass Prairie National Preserve, which is so important to the Senators from Kansas. Louisiana; Maryland; Massachusetts has four. Michigan has one; Mississippi two; Missouri one; Montana two; New Hampshire two; New Jersey two, and one of those is Sterling Forest, which is so important to make that land purchase.

New Mexico has five. I have spoken to both Senators from New Mexico, one a Democrat, one a Republican. They are most anxious to get this parks bill passed. New York has two projects. Ohio has one. Oklahoma has one. Oregon has eight. Pennsylvania has two; one each in Rhode Island, South Carolina, Tennessee, Texas; four in Utah, including the Snowbasin exchange, the Sand Hollow exchange, the Zion Park exchange, and a ski fees proposal. Virginia three; Washington State has three. West Virginia has one. Wisconsin has one. Wyoming has three.

Then there are several others, including Martin Luther King Memorial; American battlefield protection, which is so key; Japanese-American Patriot Memorial, and some very important national park agreements.

Mr. President, no one could ever stand up here and say that this bill is perfect. I daresay no bill is perfect. It may only be perfect to the bill's author. But in this case, so many people worked on this bill. In many cases it took 2 years to get some of these provisions together.

Why am I so concerned? We have the Presidio in San Francisco, a former military base with an extraordinary history. We want to set up a nonprofit public trust corporation to ensure that this magnificent sight becomes a jewel in the National Park System. We know we can do it with this trust. If we do not have this trust, we are going to have to do everything we can to have vision to make this work. But we know, just as the Pennsylvania Avenue rehabilitation took a trust, that a trust would be able to really do this job for the Presidio.

We have other things in here for California that I worked on, bills that I wrote for Manzanar which would preserve the very dark history of the days where our Japanese-American friends were placed into camps, internment camps during World War II. We want to preserve the history because we learn from history.

This bill is strongly supported by everyone in the House and in the Senate. We have a very important provision in here for the Cleveland National Forest. So we have many things in our State.

But I truly am not here simply because of what is in this bill for California, although clearly it is very important to our State. This bill is an excellent bill. It came over from the House with tremendous bipartisan support. There is no reason why we should not be voting on this bill.

The majority leader knows the rules, knows if he had brought it up, we could have filed cloture, we could have had the vote, and we would have had the bill.

He has chosen instead to say, I want to do this by unanimous consent. Well, that runs a bit of a risk, Mr. President, because just one Senator, in even an anonymous fashion, could object to this entire package. I just, frankly, do not think that is fair. Too much work has gone in, too much sweat, too many tears, too many expectations, too much work to allow, it seems to me, one Senator to stop this bill.

Now, I am hopeful that we can get every single Republican to support this bill. As I say, as far as I know, the vast majority do. I just want to say to those who would consider objecting to this bill because something they wanted did not get in it, the beauty of the legislative process is that you live to fight another day.

Now, this year I have been most fortunate in being able to accomplish a lot of my agenda. I am most appreciative of everyone, both in my State and on the committees here, who helped me do that on both sides of the aisle. I am most fortunate. It has been very productive for me. If this goes down, this will be a harsh loss to me, but I can truly say we will fight again. Why should 41 States be deprived of this bill? We have the votes here to do it. We should have seen the bill brought up. We should have had our vote. This bill should be on the way to the President.

Now, it can still happen by unanimous consent, but if one Senator takes a position that he or she is going to say, "I didn't get everything I wanted; I only got a few things for my State; I didn't get everything, therefore I am going to object," if one Senator does that, that is a harsh thing to do. I want to keep reminding the Senate about this. I know I will sound like a broken record, but that is a harsh thing to do.

For many years I have been working on an ocean sanctuary bill—started 14 years ago—to not allow the Federal waters off the coast of California to have additional oil drilling off that coast because of its dangers. I have a tremendous amount of support. Yet, there are some who believe that the oil industry should have their rights to do this, no matter what the consequence, and have blocked me from doing it. Now, I could stamp my foot and say I will object to every single bill that comes through here unless I get my way.

Another area on the environment I am working on is to make sure children are protected so that when health and safety laws are written, we take into account the vulnerability of our children, of our pregnant women, of our fragile senior citizens.

Now, I could hold up every bill that comes up and say, I didn't get my way and I'm not going to let anything go through here by unanimous consent because I think children should be protected. Let me tell you, I will fight for the children, I will fight for their safety, and I will fight every day that I live, but I also understand in the U.S. Senate where people come with different viewpoints there is a time when you come together on a bill that may not have every single thing you want.

Mr. President, this is the moment, this is the time. We could have a unanimous consent request made right now to pass the bill that was passed in the House, no changes. We are going to live for another day. Yes, a few of us will not be here next year, but as Senator BRADLEY has said, a lot of us will be, and there will be new people and a new parks bill and there will be a new day. But this parks bill that has all of these important items in it, not the least of which is the Sterling Forest in New Jersey and so many other important parks, it is incredible to me that we cannot resolve this.

One of the things I have been trying to do along with some of my colleagues—the Senators from New Jersey have been helpful, the majority leader, the Democratic leader, the White House—we have been trying to see if there is some way, without adding anything to this bill—because it is very tenuous and it was sent over in a certain form and we should pass it—some way to take care of some noncontroversial issues that do not involve our forests and do not involve our wetlands and do not involve the kinds of

things we must keep out of this bill. We are working on that.

We are working to give respect to every Senator so that every Senator knows there is another day and this administration has respect for those Senators who may not agree with everything in this bill. That is what we are trying to do, to show good faith and a recognition that not every Senator is happy.

Mr. President, since the majority leader has decided not to call this bill up and he has tied our hands and we cannot file a cloture motion and we cannot vote on this, and we are losing time—if he insists on that particular procedure, which is his call to make, no one else could make the call for him, since the majority leader has set his course and has said, "I want a parks bill, but I am not bringing the bill up, but we will do this by unanimous consent," if that is the case, then let us come together in the spirit of the closing days of this Congress, in the spirit of the extraordinary Senators who are leaving this U.S. Senate who have fought hard, very hard, for items in this bill, whether it is Senator BRADLEY, Senator KASSEBAUM, just to name a couple, let us come together and without a problem pass this bill and not come to the floor saying, "Well, we want to add more things to this bill."

Yes, we are ending this Congress, but we are coming back in January. We can do many of the things, especially if there is good will and we are not taking up very controversial matters that have been, yes, purposely kept out of this package. We cannot put them back in this package. It is not going to fly. Not everybody got what they want in this package. Not everybody will be thrilled with this package.

As I stand here in the waning hours of this Congress, we have an opportunity to leave here with a parks bill that has not included controversial provisions in it, that will not include controversial provisions in it, but reaches out into this country, into rural areas, urban areas, into the most beautiful parts of this country, into those parts of this country where the beautiful parts are diminishing, and we must reserve them. We can leave this Congress and feel so good that we reached across party lines and passed this bill. If they can do it in the House with a few dissenting votes, we should be able to do it in this U.S. Senate.

I intend to keep the Senate apprised of this issue as often as I have updates.

I yield the floor, 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. 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.

ALAN SIMPSON: A SENATE STALWART

Mr. DASCHLE. Mr. President, today I want to pay special tribute to the outstanding career of the senior Senator from Wyoming, ALAN SIMPSON.

Over the past 18 years, I have had the privilege of working with Senator SIMPSON in many different roles. His wit is unequaled. His passion for public life is inspiring. His commitment to the causes in which he believes—often regardless of their political implications—is unshakable.

Of course, during our shared 18 years in Congress, ALAN SIMPSON and I have sometimes disagreed. Neither of us has ever shied away from a healthy debate, so some of those disagreements have been relatively spirited. But I have always respected his skill and determination, and I have always considered him a friend.

Senator SIMPSON has won many legislative battles. He's also lost a few. But he has never allowed the odds against victory to discourage him from a battle he believed to be worth fighting, and he has never lost his sense of humor.

Senator SIMPSON's special blend of humor and policy interests is exemplified in the book he is about to publish: "Right in the Old Gazoo: Observations From a Lifetime of Scrapping With the Press."

ALAN SIMPSON was born in Cody, WY, to a family with a long tradition of public service. His grandfather, William, was a successful and respected attorney. His father, Mildred, was elected Governor and later served Wyoming in the U.S. Senate.

ALAN followed that tradition well. In 1958, he graduated from the University of Wyoming Law School. In 1966, he was elected to the Wyoming State Legislature, and, in 1978, he was elected to the U.S. Senate, where he will long be remembered as one of the most influential and effective Senators in Wyoming history.

After 30 years of public service, Senator SIMPSON will be remembered by many for countless different reasons. Some will remember his legislative accomplishments. Some will remember the eloquence of his words or the unique nature of his wit. Others will remember his friendship and the love that he and his wife, Ann, share for their family.

I will remember ALAN SIMPSON for all of those things. The Senate will be a very different place without him, but I am confident that his influence on national affairs will continue through his next challenge as a visiting professor at Harvard. Senator SIMPSON will assume the Lombard Chair at the John F. Kennedy School of Government. We know he will bring all of the talents he brought to this body as Senator to that responsibility as well. And all of those who are going to share the good fortune of having the opportunity to listen to him, to experience his wit, to experience his intellect, to experience his great vision about this country and the way he sees it today, will clearly be the beneficiaries. Linda and I wish him and Ann the very best.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FRAHM. Mr. President, we are in morning business. Is that correct?

The PRESIDING OFFICER. Yes.

Mrs. FRAHM. Mr. President, I request up to 10 minutes.

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

Mrs. FRAHM. Thank you, Mr. President.

MY DEDICATED STAFF

Mrs. FRAHM. Mr. President, I rise today to express my gratitude for a group of individuals who all too often don't receive the credit that they deserve, but we all know in this Chamber that they help to make everything happen. I am speaking of the staff, and particularly the staff that has served and supported me since the day I was sworn in as Senator.

When Senator Dole departed this Chamber, among his rich legacy was a dedicated group of individuals totally committed to him and equally devoted to the State of Kansas. I was fortunate to inherit this group of professionals, and together we have completed much of the work for Kansas that Senator Dole had begun. Their experience, their knowledge, and their tireless efforts on behalf of our State has once again helped to make a difference.

To Bob Dole, public service has been both an honorable and a worthy pursuit. "Making a difference" is how Bob puts it. In the Dole lexicon, there is no higher compliment than to tell someone that they have made a difference. If he were here today, I know Bob Dole would join me and the U.S. Senate in thanking our Hart Office staff, Sarah Brown, Darren Dick, Keira Franz, Ruth Ann Komarek, Tom Lewis, Kevin Linskey, Megan Lucas, Nathan Muyskens, Lisa Reynolds, Ron Seeber, Janet Sena, Amy Smith, Dan Stanley, Erin Streeter, David Wilson, and Mike Torrey for all of the loyal service they have given this body and to Kansas.

As Bob Dole would put it, "You have made a difference."

As each of the Senators know, the people who work in our State offices

provide that vital link between the people and their Government. They serve on the front lines. They help people in need, listen to their problems, receive the brunt of their frustrations, and in our absence these people toil daily in an effort to connect the Government to people's lives. I want to pay special tribute to our State office staff, Chuck Alderson, Judy Brown, Alan Cobb, Romona Corbin, Diana Dooms, Gale Grosch, Dave Spears, and Cathie Yeager. Kansas is proud and deeply appreciative of their service.

There are five other special people who have been with me from the beginning that I would also like to thank. They are Trent Ledouix, Bruce Lott, Jim Rowland, Gayle Shaw, and Dave Young. Their service to me and to Kansas will always be remembered and appreciated.

Mr. President, thank you.

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.

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

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

Mrs. FEINSTEIN. I ask to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. I thank the Chair.

SALUTE TO RETIRING SENATORS

Mrs. FEINSTEIN. Mr. President, I begin by paying my respects to those Senators who are departing this body. One of the great privileges for me has been to have worked with them. I think each in his own right has added considerably to the dimension of the Senate, and particularly one Senator, NANCY KASSEBAUM, I wish to salute her for her many additions. I have had the occasion to sit on the Foreign Relations Committee with her and to observe her and watch her and see her do her homework. For me as a woman this has been a very special experience. So I want to particularly salute her and also to thank the departing Senators for all of the courtesies they have extended to me and to the State of California.

REACHING ACCOMMODATION ON THE PARKS BILL

Mrs. FEINSTEIN. Mr. President, I echo the comments of my colleague, Senator BOXER, on the parks bill in the hopes that some accommodation can be formulated in the next few hours that will give us a bill.

One of the most difficult things about this body, and I suppose any other body, is that we do not always get what we would like to get or think we deserve in good conscience or what the body owes or what the Government should respond to. However, this is an important bill, and literally dozens of States are impacted, all of them positively, by this bill. For California, it is a particularly important bill.

I thank the chairman of the committee for his indulgence, and I hope in the next few hours there can be some conclusion to this which will bring before us a bill that is significant for every Member of this body.

PENDING JUDICIAL NOMINATIONS

Mrs. FEINSTEIN. Mr. President, I want to address my remarks today to pending judicial nominations. It is my understanding that there may be some agreement to bring forward some additional judicial appointments before this Senate adjourns. I certainly hope that is the case. I want to point out five specific judges, relating to California, some of which have been before this body for a substantial period of time, and the importance of those nominations.

We essentially have two appointments to the Ninth Circuit Court of Appeals which could be filled by this Senate in the next day. The first is William Fletcher. He is a Harvard College graduate. He is a Rhodes Scholar. He is a Navy officer. He is a graduate of Yale Law School. He has been a law clerk for Justice Brennan, and a law professor at the University of California at Berkeley since 1977. He actually received the university's distinguished teaching award in 1993.

I was sitting on the Judiciary Committee when he came up for review. He passed that committee with a favorable recommendation by a vote of 12 to 6. At that time there was some concern about his mother's service on the ninth circuit. An overture was made, as to whether his mother would be willing to either retire or take senior status. She has since said that she would be willing to take senior status to avoid any tinge of nepotism, should he be appointed to the Ninth Circuit Court of Appeals.

I might say this. The American Bar Association has unanimously rated Professor Fletcher, "well qualified." That is its highest rating. His academic colleagues have stated to us that he is fair minded and politically moderate.

Mr. President, I ask unanimous consent that a number of letters regarding Professor Fletcher's nomination be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. It is very hard to understand why he has been lingering on the Executive Calendar, essentially since May 16, without our having an opportunity to discuss his candidacy on the floor of the U.S. Senate. I hope we would have that opportunity. I think it is important that we do so.

Another candidate who has been waiting before this body since June 27, when she passed the Judiciary Committee on a unanimous vote, is Margaret Morrow, who has been nominated for District Judge in the Central District of California, in Los Angeles. She is a graduate of Bryn Mawr magna cum laude. She is a graduate of Harvard Law School, cum laude. She is a partner in a prominent Los Angeles law firm.

She has won the Bernard E. Witkin Amicus Curiae Award from the California Judicial Council in 1995. She has received the Ernestine Stalhut Award for the most distinguished woman lawyer in Los Angeles. She has received the President's award from the California Association of Court-Appointed Special Advocates. She has received the Pro Bono Advocacy Award from the Western Center on Law and Poverty. She has received a number of special awards.

She is the first woman president of the California Bar Association and served as president of the Los Angeles Bar Association. She was found also to be "well qualified."

Her nomination has been languishing in this body since June 27. I hope that in any arrangement that might be put forward, both Margaret Morrow as well as William Fletcher would be part of that arrangement. This is extraordinarily important to me.

Another Presidential nominee to the Ninth Circuit Court of Appeals is Richard Paez. Richard Paez has had a hearing on July 31. Action in the Judiciary Committee has not yet been taken. He was nominated by the President on January 25.

Judge Paez is a graduate of Brigham Young University and the University of California Law School. He has had a distinguished career in Los Angeles, where he served on the Los Angeles Municipal Court from 1981 to 1994. He was chairman of the Los Angeles County Municipal Judges Association in 1990. The Judiciary Committee held a hearing and this Senate did appoint him to the District Court for the Central District of California in 1994, so he has had a hearing by the Judiciary Committee. He has been approved by them, and he has been approved by this body for the district court.

Now the President has seen fit to recommend him for appointment to the Ninth Circuit Court of Appeals. I hope that action might be taken on his case prior to the end of this session.

There is one hardship case that I would like to raise at this time. The national average caseload for all cases is 448 cases per judge. The national average for criminal cases is 51 cases per

judge. San Diego has a major caseload problem. In the Southern District of California, in San Diego, the average caseload is almost double that of the national average, 726 cases per judge. It is quadruple the national average in Federal criminal cases, with 213 criminal cases per judge.

Jeffrey T. Miller, who is one of my nominees, was nominated to be district judge for the Southern District of California. He is a sitting State superior court judge in San Diego, and has sat on that bench since 1987. Prior to that time, he was deputy attorney general in the California attorney general's office from 1968 to 1987. I took this up at the Judiciary Committee. I have asked for hearings to be able to consider his case. Judge Keep of the district court in San Diego has called and has indicated her concern about the caseload and asked if this body might be willing to take action to confirm this judge. With a criminal caseload that is quadruple the national average and overall caseload that is almost double the national average, I think on a hardship case that judge, as well, should be approved.

I would like to just end with one additional judge and that is Christina Snyder, nominated to be the U.S. district judge, District Court for the Central District of California, in hopes that her case might also be heard. I recognize she has not yet had a committee hearing and has been waiting for one to take place since May 15.

What I have tried to do is indicate two court of appeals judges who I think should be part of any final passage. Certainly, at the very least, one district court judge, Margaret Morrow, who has been waiting a long time, should be part of any final passage.

I wanted to make very clear to this whole body the importance of this to me, in considering any final passage of judicial appointments which might come before this body. I thank the Chair and I yield the floor.

EXHIBIT 1

UNIVERSITY OF TEXAS
SCHOOL OF LAW,
Austin, TX, September 28, 1995.

Hon. ORRIN G. HATCH,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HATCH: My expectation is that the letter I wrote Judge Mikva many months ago, urging the President to nominate William Fletcher for a seat on the Ninth Circuit, is a part of the file that your committee has in passing on that nomination. It occurred to me, however, that it might be useful for me to write you directly to say what a fine appointment that is and how much I hope that it will be confirmed by the Senate.

I do not doubt that Professor Fletcher is more liberal on many issues than I am. That seems to me almost entirely irrelevant. Over the years that I have known him and also read his writing, what has greatly impressed me has been that he has a quality that I regard as absolutely essential for a scholar and that I regard as equally important for a judge. This is the ability to put his own preferences aside and to hunt objectively to see what answer the law provides.

Too many scholars approach a new issue with preconceptions of how it should come out and they then force the data that their research uncovers to support the conclusion they had formed before they did any research. I think that is reprehensible for a scholar and it is dangerous for a judge.

I am completely confident that when Fletcher finishes his service on the Ninth Circuit we will say not that he has been a liberal judge or a conservative judge but that he has been an excellent judge, one who has brought a brilliant mind, great powers of analysis, and total objectivity to the cases that came before him.

Although you do not know me well, I believe that our acquaintance over a number of years has been enough for you to know that I would not say this merely because I think of Fletcher as a friend, I have spent a lifetime working for the improvement of the federal courts. I believe that the nomination of William Fletcher will add strength to the Ninth Circuit and I hope very much that he is confirmed.

It is wonderful to have you as Chairman of the Judiciary Committee, I wish you well in that challenging task. Anytime I can be of assistance to you or the Committee on the kinds of matters on which I have some expertness, I would be delighted to help.

Sincerely,

CHARLIE WRIGHT.

HARVARD LAW SCHOOL,
Cambridge, MA, October 18, 1995.

Senator ORRIN G. HATCH,
Chairman, Senate Judiciary Committee,
Dirksen Building, Washington, DC.

DEAR SENATOR HATCH: We understand that William A. Fletcher, Professor of Law at the University of California, Berkeley, has been nominated to the United States Court of Appeals for the Ninth Circuit. We write to express our exceptionally high regard for his abilities and our deep enthusiasm about the prospect of his confirmation.

One of us (Daniel Meltzer) has known Mr. Fletcher for more than 19 years, since the time they served together as clerks at the United States Supreme Court. Though they now reside on different coasts, they have maintained their friendship, and because they teach the same law school course (Federal Courts), they have been professional colleagues, discussing academic matters, reading each other's publications, exchanging manuscripts, and engaging in other forms of academic collaboration.

Mr. Shapiro also knows Mr. Fletcher. Like Mr. Meltzer, he too teaches Federal Courts and hence has long been familiar with Mr. Fletcher's scholarship. Mr. Shapiro also served as Deputy Solicitor General, from 1988–91, which gave him an additional vantage point on both the work of the federal courts and on Mr. Fletcher's contribution to scholarship in that field.

In our opinion, Mr. Fletcher is a scholar of the first-rank. His writing in the area of Federal Courts displays intellectual rigor, mastery of the subject, and very sound and balanced judgment about complex and controversial legal matters. His voice is an important one that is broadly respected by a wide range of scholars. His work reflects the abilities not only of a creative scholar, but also of a careful and thoughtful lawyer.

Mr. Fletcher's scholarly work extends also to the fields of federal civil procedure and federal constitutional law. Thus, the sphere of his interests and achievements as a scholar constitute ideal preparation for the work of a federal circuit judge.

Finally, Mr. Fletcher is a person of enormous integrity, unfailing decency, and great personal warmth and good humor. In light of those qualities, we believe that fellow judges of all viewpoints would find him a congenial colleague, and would develop for him the same professional admiration that he has earned across the academic spectrum.

We hope that his assessment is helpful. Please let us know if we can be of any further assistance.

Sincerely,

DANIEL J. MELTZER,
Professor of Law.
DAVID L. SHAPIRO,
William Nelson Cromwell Professor of Law.

UNIVERSITY OF PENNSYLVANIA,
THE LAW SCHOOL,
Philadelphia, PA, October 23, 1995.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: As you know, the President has nominated Professor William A. Fletcher to be a judge on the United States Court of Appeals for the Ninth Circuit. Because I have known Willy since we were college classmates and because I have such high regard for his character and abilities, I write to urge that you support his confirmation by the Senate.

By way of background, I was a law clerk to the late Chief Justice Burger in 1974–75 and have been on the faculty of the University of Pennsylvania Law School since 1979. I teach and write in the areas of civil procedure, conflict of laws and judicial administration. I had the pleasure of meeting and testifying before you and other members of the Subcommittee on the Constitution of the Senate Judiciary Committee, together with Chief Judge Clifford Wallace, in 1986. The subject of that hearing, Senate Joint Resolutions that would have altered in fundamental ways our arrangements for federal judicial discipline, subsequently occupied my attention as a member of the National Commission on Judicial Discipline and Removal. On the Commission I worked particularly closely with the Vice-Chair, Judge S. Jay Plager of the United States Court of Appeals for the Federal Circuit, and we co-authored an article about the Commission's work.

As I mentioned, I knew Professor Fletcher as a student at Harvard College, where he had a distinguished record, graduating magna cum laude in history and literature (then perhaps the most difficult major at Harvard) in 1968. He earned another degree at Oxford on a Rhodes Scholarship and then served on active duty in the Navy. Following law school at Yale and clerkships with Judge Weigel and Justice Brennan, Willy joined the faculty at Boalt Hall (Berkeley), where he has been ever since (with occasional visiting appointments at other schools).

Willy is a scholar of federal courts, constitutional law, and civil procedure. Because our interests overlap to a considerable extent, I have read almost everything he has written. His work is both analytically acute and painstaking in its regard for history. Indeed, love of and respect for history shine through all of his work, as the history itself illuminates the various corners of the law he enters. For instance, Willy's article on the Rules of Decision Act is a tour de force. He

uses marine insurance cases from our early days to show how differently the judges and other lawyers of that period thought about law and hence to reveal current interpretations of that very important statute as the product of a philosophy (positivism) far removed from the minds of the First Congress. Of greater current interest are his writings on the Eleventh Amendment, which has attracted volumes of teleological scholarship—what is sometimes referred to as "law office history." Willy's work is, by contrast, scrupulous, balanced, and, I believe, persuasive.

If only because Willy has been nominated by this President, for whose campaign in Northern California he served as unpaid codirector, I wish to stress that the qualities of care and balance characterize all of Willy's scholarship. He is also a lucid writer. As a result, his Yale article on the "Structure of Standing" may well be the best treatment of that confusing subject in the literature, as well as the most faithful to the history of the doctrine. It is also far removed from the expansive approach of Justice Douglas and other members of the Warren Court.

In sum, as to Willy's legal qualifications, I second the views of Charles Alan Wright expressed in the enclosed article from the Los Angeles Times. I would add only the suggestion that, if you have any residual doubt, you solicit the views of my colleague, Geoffrey Hazard. Geof recruited Willy to work with him on his casebook in Civil Procedure, the best evidence of the high regard of a demanding critic. Of course you can make the judgment yourself.

Finally, believing as I do—particularly after service on the National Commission on Judicial Discipline and Removal—that character is of equal importance with intelligence as a desideratum in a judge, I can testify from thirty years of knowing Willy Fletcher that he will bring great distinction to the federal judiciary. He is a man of integrity and compassion but one who knows that the law cannot (and should not) solve all of society's problems.

Please let me know if I can provide any additional information.

I hope that you are well.

Sincerely,

STEPHEN B. BURBANK,
David Berger Professor for the Administration of Justice and Acting Dean.

[From the New Republic, May 22, 1995]

On the other hand: After two years of lamenting President Clinton's failure to appoint scholars to the federal courts, we're delighted to note that he last week nominated U.C.-Berkeley's William Fletcher to the United States Court of Appeals for the Ninth Circuit.

Fletcher is the most impressive scholar of federal jurisdiction in the country. His pathbreaking articles on sovereign immunity and federal common law have transformed the debates in those fields; and his work is marked by the kind of careful historical and textual analysis that should serve as a model for liberals and conservatives alike.

If confirmed, Fletcher will join his mother, Betty, on the Ninth Circuit but his judicial philosophy is more restrained than hers. We hope he is confirmed as swiftly as possible.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

STAFF TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. KENNEDY. Mr. President, it is my very great privilege to honor a request from Senator CLAIBORNE PELL's staff to read a letter they have written to him, which will come as a great surprise to him. It is the following:

U.S. SENATE,
Washington DC, September 30, 1996.

Hon. CLAIBORNE PELL,
Russell Building,
Washington, DC.

DEAR SENATOR PELL: As your current Washington and Rhode Island staff—representing a collective total of 394 years of service—we want to let you know of our great esteem for you.

Each of us has developed our own relationship with you over the years; many of us know you very well. We all have tremendous affection and admiration for you. We admire you for your integrity and conscience, compassion and understanding, and for your devotion to Rhode Island and your constituents. You have been an exceptional and devoted public servant for 36 years, and in that, a constant example to all of us who served your cause.

You have always extended to each of us the greatest measure of respect, courtesy, and kindness. You have been sensitive and caring when we had personal problems or tragedies, and you have joined us in celebrating the good things that have happened in our lives. Even in the fast-paced, high pressure world of Capitol Hill, you never failed to say "please" or "thank you" and always had a word of praise for a job well done. Few, if any, of us have ever seen you lose your temper; most of us don't think you have one.

Those of us who have traveled around Rhode Island, and indeed the world, with you or on your behalf continue to be proud, though not surprised, at the love, affection, trust, and approval that greets you. But your overwhelming popularity should not be misconstrued as a failure to take unpopular positions; to the contrary, you have often cast votes which find you in the smallest minority, allowing your conscience and good judgment to be your guide. You were able to do this and not only survive politically, but thrive politically, because you are a leader, and the people of Rhode Island knew that you would lead, even if others were slow to follow.

Since your retirement announcement last fall, we have been touched, pleased, and proud of the many tributes of your colleagues and friends. In particular, there have been bipartisan accolades about your "civility" toward other Members, even in the heat of debate. We whole-heartedly agree with this assessment because we know your civility is universal. We know that what your colleagues know and what the world has seen is what we have experienced privately. For that we are deeply grateful.

We wish you a long, happy, and healthy retirement, filled with the love and laughter of your wonderful family. We thank you for your trust, loyalty, and affection over the years, and we look forward to staying in close touch in the years to come.

Bill Ashworth, 1972–79; 1981–96.
Joanne Berry, 1994–1996.
Claire Birkmaier, 1964–1996.
Bill Bryant, 1977–1996.
Susan Cameron, 1984–1996.
Suellen Carroll, 1992–1996.
Bonnie Coe, 1994–1996.
Jack Cummings, 1976–1996.
Jan Demers, 1972–1996.
Filomena Dutra, 1990–1996.
Jennifer Eason, 1995–1996.
David Evans, 1978–1996.
Jay Ghazal, 1985–1996.
Steve Grand, 1996.
Lauren Gross, 1987–1996.
Ed Hall, 1975–78; 1991–96.
Rosanne Haroian, 1989–1996.
Margaret Huang, 1995–1996.
Tom Hughes, 1971–1996.
Jane Jellison, 1979–1996.
Steve Keenan, 1995–1996.
Vanessa Lisi, 1995–1996.
Irene Maciel, 1988–1996.
Larry Massen, 1990–1996.
Ursula McMan, 1990–1996.
Paula Mollo, 1989–1996.
Carmel Motherway, 1995–1996.
Janice O'Connell, 1977–1996.
Diana Ohlbaum, 1993–1996.
Ken Payne, 1988–1996.
Orlando Potter, 1963–68; 1983–96.
Dawn Ratliff, 1992–1996.
Dennis Riley, 1973–1996.
Colleen Sands, 1995–1996.
Kristen Silvia, 1995–1996.
Dana Slabodkin, 1995–1996.
Nancy Stetson, 1981–1996.
Kathi Taylor, 1977–1996.
Rick Van Ausdall, 1995–1996.
Pamela Walker, 1995–1996.
Kevin Wilson, 1985–1996.

Mr. President, I join—I think all of us do—in that remarkable tribute, and I think if all of us had a similar comment from those who worked for us in the Senate over the years, we would be very fortunate, indeed.

Mr. PELL. I thank my colleague from the bottom of my heart. Thank you.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, it is a very fitting tribute to Senator PELL. Those of us who have worked with him and staff know the great relationship that exists between the Senator and his staff. I think it is a wonderful thing for staff to take the opportunity to have a statement read like that on the Senate floor.

SENATOR MARK O. HATFIELD

Mr. MOYNIHAN. Mr. President, quite the most notable, if at times little noted, fact about the American Constitution is that the Framers brought a wholly new conception of the nature of political man to the design of American Government. They were keenly aware of this fact, for it was crucial to their claim that a republic might work, given, as "The Federalist" remarks at some point, "the fugitive existence" of the ancient republics of Greece, and that of Rome. That history was familiar to what we would call educated persons in the 18th century, and it made for skepticism at best; pessimism in the main. But harken, said the Framers, we have developed a "new science of politics," which radically changes the assumptions on which those ancient governments were founded. We would not depend on virtue in our rulers; virtue was too rare, too fleeting, too unforeseeable. To the contrary, we would take man as he is and use his defects to perfect a new system of government that would endure by virtue of

its recognition of how little virtue may be depended upon. Instead, we would build into our Government a system of checks and balances whereby the clash of interests would offset one another and make up, in that wonderful phrase, for "the defect of better motives."

Well, the Republic has endured. In the world today there are two nations and two only which both existed in 1800 and have not had their form of government changed since then. That is to say, the United States and the United Kingdom. And, of course, the case can be made that the Government of the United Kingdom is radically different, then from now. Ours is the very same in structure, with changes that only reaffirm the original purpose; reaffirm and enhance. And surely time has confirmed the Framers in their judgment that interest, not virtue, would rule the polity. Not unbridled, demonic interest; but interest withal.

The more, then, may we note and ought we note the appearance from time to time of a political figure singular for disinterestedness and for virtue, as the ancients would have understood it, and which is as singular today as ever, and immediately recognizable. Such a person is MARK HATFIELD of Oregon, who would never dream of calling himself the conscience of the Senate, although he has been just that for an astounding 30 years.

I state that he would never dream of thinking himself such, much less encouraging others to do. For he is singularly of that great Anabaptist tradition which condemned government involvement in religion and which eventually led to the idea of the separation of church and state. MARK HATFIELD would fear that conscience might too readily decline into dogma. And so, he has spoke but little of such matters. He has merely and singularly embodied them.

He came of age in the Second World War, and served in the U.S. Navy from 1943 to 1946. At the Navy Memorial on Pennsylvania Avenue there is carved in granite a wonderful line of John F. Kennedy: "Any man who may be asked in this century what he did to make his life worthwhile, can respond with a good deal of pride and satisfaction, 'I served in the United States Navy.'" I would simply say that this would surely be the case had he served with the like of MARK HATFIELD. A man of deep pacific conviction, serving his country in wartime withal.

He returned to become a professor of political science at his own Willamette University. There then began a political science lesson of dazzling deftness and direction. First, the Oregon House of Representatives. Next, the Oregon State Senate. Secretary of State; Governor. Thence to the U.S. Senate.

There is none of us in this body who does not treasure some aspect of his great, transcendent qualities. For my own part, may I record his dogged, affectionate, informed interest in the career of Herbert Hoover. Woodrow Wilson had two subcabinet members who would go on to the Presidency: Herbert Hoover and Franklin D. Roosevelt. Hoover was by far the more learned and experienced man, but fate was harsh. And it was a kind of fate, not so different from that of Wilson himself, as Hoover depicted it in a superb account, "The Ordeal of Woodrow Wilson." The book, first published in 1958, was reprinted in 1992. Naturally, a brilliant introduction was written by MARK HATFIELD.

And so he and his beloved Antoinette return to Oregon and to his chair at Willamette University. We must not say we will not see his like again. The Constitution does not call for such, but one doubts the Republic can be sustained without some such as he. One or two a generation: capable of gaining power not for power's sake, but for virtue's imperatives. In our time that man has been MARK HATFIELD.

COAST GUARD REAUTHORIZATION

Mr. LOTT. Mr. President, I rise today to commend Senator STEVENS for his hard work to reauthorize the U.S. Coast Guard [USCG]. This small but vital Federal agency has faithfully served our Nation since 1790. Considered by many to be a model agency, the USCG has been the guardian of safety and security for our Nation's maritime highways and sea links to the world. Under the joint leadership of Senator STEVENS and Representative BUD SHUSTER, a long-overdue reauthorization of this worthy agency has been completed. A difficult task. A real accomplishment.

Because almost all of our imports, exports and domestic freight are transported by water, the reauthorization of the USCG is of utmost importance. Approximately 90 percent of Americans live within 100 miles of the coast or a major waterway. Many Americans enjoy recreation near the water and many pursue their livelihoods using affordable products efficiently transported by water. Clearly, the Coast Guard protects these vital interests.

The Coast Guard has made great strides toward fostering our prosperity and safety. In my home State of Mississippi over the past 2 years, the USCG has conducted nearly 4,000 search and rescue missions, saving over 200 lives and $9 million in property. Let me tell my colleagues about a few noteworthy accomplishments made in the State of Mississippi.

Last fall, an overturned propane truck in Kiln, MS, was righted and the road was promptly reopened. This was due to the direct and coordinated efforts of the Coast Guard and the local volunteer fire department.

Last winter, the Coast Guard coordinated a 1-month cleanup plan in response to a slurry oil discharge between the levees and the batture in Vicksburg. This required a cooperative effort between the authorities in two States, Mississippi and Louisiana, leading to the development of contingency plans for interstate and railroad bridges should another barge-rail accident occur.

In 1995, Hurricanes Erin and Opal hit Mississippi's coastal towns. The Coast Guard's proactive approach to this situation mitigated countless small oil spills caused by sinking pleasure crafts.

When a chemical release in the Port of Bienville caused a significant fish kill, the Coast Guard served as the first response agency, taking immediate steps to contain the spill.

With 2 percent of America's imported oil coming through the port of Pascagoula, there is great potential for accident. Thanks to the vigilance of the Coast Guard, this lightering operation has been effective and environmentally safe. In fact, their recent mapping of the environmentally sensitive areas along Mississippi's coast and waterways has permitted the Coast Guard to respond to potential pollutants in a more effective and focused manner.

Mr. President, on behalf of the State of Mississippi, I would like to personally commend the hard work of the men and women serving the Coast Guard at Point Estero and Point Monroe in Gulfport, Patoka in Greenville, Greenbrier in Natchez, Kickapoo in Vicksburg and Pascagoula, as well as those who work at Station Gulfport, Aids to Navigation Team Gulfport, and the National Data Buoy Center at Stennis Space Center.

The Coast Guard may be one of the most productive agencies in the Government today. In lives and property alone, the Coast Guard returns a value to America equal to nearly four times its total cost. On an average day, the Coast Guard seizes illegal shipments of narcotics with a street value of over $7 million, interdicts 14 illegal migrants, responds to 38 oil or hazardous chemical spills, conducts 180 search and rescue cases, saves 12 lives and services 150 aids to navigation. The Coast Guard does this every day, all year round, for less than $4 billion annually. I believe that no other government investment can match the unique value of the Coast Guard.

Despite this heavy workload, however, the Coast Guard has aggressively sought to streamline its organization and reduce its overall budget. In the past 3 years, Adm. Robert E. Kramek, the Commandant of the Coast Guard, has reduced the service's work force by 4,000 positions and lowered it's annual budget by $400 million—all without reducing any services to the general public. While many agencies have failed to offer meaningful contributions to our

efforts to balance the Federal budget, the Coast Guard has been a leader in fiscal responsibility.

Mr. President, I again commend Senator STEVENS and Representative SHUSTER for their dedication to reauthorizing the USCG. I would also like to recognize two staff members whose focused efforts were integral to the success of this reauthorization, Tom Melius of Senator STEVENS' staff and Rebecca Dye of Representative COBLE's staff. Their hard work has certainly paid off. This legislation will ensure that the Coast Guard will continue to do an excellent job of protecting our Nation's maritime highways for years to come.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 1, the Federal debt stood at $5,234,730,786,626.50.

Five years ago, October 1, 1991, the Federal debt stood at $3,674,303,000,000.

Ten years ago, October 1, 1986, the Federal debt stood at $2,125,302,000,000.

Fifteen years ago, October 1, 1981, the Federal debt stood at $997,984,000,000.

Twenty-five years ago, October 1, 1971, the Federal debt stood at $412,058,000,000 which reflects an increase of nearly $5 trillion ($4,822,672,786,626.50) during the past 25 years.

MAINTAINING OUR B–52 FLEET

Mr. DORGAN. Mr. President, I rise to comment on important steps taken in this year's defense appropriations bill to maintain our full fleet of 94 B–52H bombers. Many North Dakotans, particularly those who live and work at Minot Air Force Base, are very interested in the future of these aircraft.

My colleagues will understand the importance of these bombers when they recall that it was B–52's that recently struck at Saddam Hussein in retaliation for his violation of the Kurdish safe haven in northern Iraq. Those bombers flew from Guam, were refueled by KC–135 tankers, and launched 13 AGM–86 cruise missiles at air defense, command and communications targets in southern Iraq. Press reports suggested that the B–52's long-range capability was needed because no Middle Eastern country would allow the United States to use its bases or airspace in order to launch this air strike.

AUTHORIZATION ACT

My colleagues will also recall that the Congress recognized the importance of these bombers in the defense authorization act by including language that prohibits "retiring or dismantling, or preparing to retire or dismantle" any B–52H bombers.

The authorization bill also included an amendment offered by Senator CONRAD and myself that requires that the current fleet of B–52 bombers be maintained in active status and that the Secretary of Defense treat all B–52's identically when carrying out upgrades.

Lastly, the Armed Services Committees of the House and Senate agreed to authorize additional funding for B–52 modernizations, operations and maintenance, and personnel.

DEFENSE APPROPRIATIONS BILL

The fiscal year 1997 defense appropriations bill, which the Senate has just passed, fulfills the promise of the authorization act. The conference report includes $4.4 million for military personnel, $47.9 million for operations and maintenance and $11.5 million for procurement. This additional funding is vital if we are to keep all 94 B–52's modernized and flying. This number is the full fleet of our only bomber that can deliver both conventional and nuclear payloads.

I am pleased that the Congress has again recognized the wisdom of not trying to prejudge force structure studies now underway at the Pentagon. It makes no sense to retire B–52 bombers when the Deep Attack Weapons Mix Study and the next Quadrennial Defense Review may recommend that we keep them in the air.

STUDY OF NEW ENGINES

Lastly, report language accompanying this bill requires the Air Force to report to the Congress by March 15, 1997 on a proposal to put new, commercially-available engines on the B–52's. Some projections suggest that the new engines would save the Air Force 40 percent of the B–52's current fuel costs, would increase the plane's range and loitering capability, and would improve engine reliability and ease of maintenance. Over the planes' projected remaining life (through 2036), the new engines could save the Air Force $6.4 billion. These savings would likely be enough to pay for the costs of operating and maintaining the 28 B–52's that the Pentagon has sought to retire.

I applaud the defense appropriations conferees for recognizing the potential benefits of this innovative plan. And I look forward to reviewing the Air Force's analysis of this proposal.

Mr. President, in closing I would like to thank Senator STEVENS of Alaska and Senator INOUYE of Hawaii, the distinguished chairman and ranking member of the Defense Appropriations Subcommittee, for their recognition of the value of our B–52 fleet. I look forward to working with them to keep 94 B–52's flying for many years to come.

IRS WORKERS AND THE OMNIBUS APPROPRIATIONS BILL

Mr. DORGAN. Mr President, I rise to comment briefly on an aspect of the omnibus fiscal year 1997 appropriations bill that the Senate just passed.

My Senate colleagues will recall that the Internal Revenue Service has proposed a field office reorganization that would cut 2,490 employees, many of them from front-line taxpayer assistance jobs. These employees are now in field offices, where they provide needed services to taxpayers in North Dakota and other rural States. The IRS proposes to hire 1,500 new employees in its regional headquarters to do some of the same work now carried out at the field office level.

This IRS proposal puzzles me for a number of reasons.

First, we all know that taxpayers too often have trouble getting straight answers out of the IRS. The proposed reorganization would make it even more difficult for North Dakotans to have access to advice and assistance on how to comply with Federal tax law. I often hear from constituents who are frustrated at their inability to get sound tax advice from this agency. A 1–800 number, which may or may not be answered, is no substitute for the ability to walk into an IRS field office and receive advice in person.

Second, if the IRS is trying to save money, it could start by examining its personnel policies on the rotation of managers. My State staff tells me that no other Federal agency changes its management staff as constantly as does the IRS. Sometimes the North Dakota State director stays for only a year or so before moving on to the regional office in Saint Paul, or elsewhere. Besides harming institutional memory about tax matters in North Dakota, this rapid turnover means that the IRS must spend more on moving expenses. The IRS also has an arrangement with local real estate firms to buy managers' homes so that those leaving North Dakota do not suffer any loss as they leave. I am told that the IRS district that includes North and South Dakota and Minnesota has spent $300,000 on managerial moves in the past few years. None of the front-line employees who may be fired will be eligible for this sort of moving assistance.

Third, by moving jobs from North Dakota to St. Paul, the IRS will actually be increasing its payroll costs. A salary of $30,000 will go much further in a small city than in a large metropolitan area. The IRS is therefore likely to be able to attract more qualified people in my State than in the Twin Cities with the same salary level.

Given my concern with this IRS proposal, I am pleased that the omnibus appropriations bill contains a provision that would delay the reorganization plan until March 1997, at the earliest. In addition, before implementing its

reorganization, the IRS will have to submit a report to the Congress justifying its plan on cost-benefit grounds.

This provision is not a perfect solution to this problem. I would have preferred the original language offered by Senator KERREY of Nebraska to the freestanding Treasury-Postal appropriations bill. That language would have delayed the reorganization until the National Commission on Restructuring the Internal Revenue Service had a chance to issue its final report.

Nevertheless, this provision buys us time to try to understand the proposed reorganization and to see whether the IRS can justify its plan. I look forward to working with the distinguished minority leader, Senator DASCHLE, and the ranking member of the Treasury-Postal Appropriations Subcommittee, Senator KERREY, to ensure that the IRS does not abandon rural States in a misguided attempt to achieve phantom savings.

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

FEDERAL FIREARMS DISABILITIES PROVISION OF THE OMNIBUS APPROPRIATIONS BILL

Mr. SIMON. Mr. President, upon the passage of the omnibus appropriations package, I would like to take a moment to discuss a provision that will prohibit the expenditure of funds for the Bureau of Alcohol, Tobacco and Firearms' [ATF] disability relief program.

The background behind this simple provision is as follows. Under current Federal law, someone who has been convicted of a crime punishable by more than 1 year is ineligible, or disabled, from possessing a firearm—a sensible idea. However, Congress created a loophole in 1965 whereby convicted felons could apply to ATF to have their firearm privileges restored, at an estimated taxpayer cost of $10,000 per waiver granted.

We have fought to end this program and have succeeded in stripping the program's funding in annual appropriations bills since 1992.

This year, we faced an additional challenge in our efforts to keep guns out of the hands of convicted felons. A recent court case in Pennsylvania misinterpreted our intentions and opened the door for these convicted felons to apply for judicial review of their disability relief applications.

In this case, Rice versus United States, the Third Circuit Court of Appeals found that the current funding prohibition does not make clear congressional intent to bar all avenues of relief for convicted felons. By their reasoning, since ATF is unable to consider applications for relief, felons are entitled to ask the courts to review their applications.

This misguided decision could flood the courts with felons seeking the restoration of their gun rights, effectively shifting from ATF to the courts the burden of considering these applications. Instead of wasting taxpayer money and the time of ATF agents, which could be much better spent on important law enforcement efforts, such as the investigation of church arsons, we would now be wasting court resources and distracting the courts from consideration of serious criminal cases.

Fortunately, another decision by the fifth circuit in U.S. versus McGill found that congressional intent to prohibit any Federal relief—either through ATF or the courts—is clear. The fifth circuit concluded that convicted felons are therefore not eligible for judicial review of their relief applications.

Given this conflict in the circuit courts, it is important that we once again clarify our original and sustaining intention. The goal of this provision has always been to prohibit convicted felons from getting their guns back—whether through ATF or the courts. It was never our intention to shift the burden to the courts.

Congressman DURBIN and his colleagues succeeded in their efforts to include language in the House appropriations bill to make clear that convicted felons may not use the courts in their efforts to get their guns back. I applaud the House committee for its wise vote on this issue.

During the same markup, Congressman DURBIN's efforts were undermined by a related exemption offered by Congressman OBEY. This exemption would have allowed those individuals convicted of nonviolent felonies the ability to appeal for judicial review of their relief application.

According to Congressman OBEY's amendment, the opportunity to appeal to the courts would have been closed to those felons convicted of violent crimes, firearms violations, or drug-related crimes. All other felons would have been allowed to apply to the courts for review of their relief applications.

Mr. OBEY's exemption was clearly inconsistent with the original intent of this provision for three simple reasons:

First, one need only consider people like Al Capone and countless other violent criminals who were convicted of lesser, nonviolent felonies, to understand how dangerous this Capone amendment will be to public safety. Our intent when we first passed this provision—and every year thereafter—has been to prohibit anyone who was convicted of a crime punishable by more than 1 year from restoring their gun privileges via the ATF procedure or a judicial review.

Second, as Dewey Stokes, the former president of the Fraternal Order of Police noted, most criminals do not commit murder as their first crime. Rather, most criminals start by committing nonviolent crimes which escalate into violent crimes. An ATF analysis shows that between 1985 and 1992, 69 nonviolent felons were granted firearms relief and subsequently re-arrested for violent crimes such as attempted murder, first degree sexual assault, child molestation, kidnaping/abduction, and drug trafficking.

Third, there is no reason in the world for the taxpayers' money and court resources to be wasted by allowing the review of any convicted felons' application to get their guns back. It made no sense for ATF to take agents away from their important law enforcement work, and it makes even less sense for the courts, which have no experience or expertise in this area, to be burdened with this unnecessary job. Let me make this point perfectly clear: It was never our intent, nor is it now, for the courts to review a convicted felon's application for firearm privilege restoration.

I am pleased that the conference committee understood our original intention and did not allow the Obey provision to stand. As it stands, the omnibus appropriations law is consistent with our lasting desire to stop arming felons.

Mr. LAUTENBERG. I thank the Senator for clearly laying out the facts. As the coauthor of this provision, I share his interest and concern about this issue. I am also pleased that the conference committee understood our intent regarding the Federal firearms relief program. I agree with his analysis completely and intend to closely follow this situation in the coming year to see if any further legislation is necessary to clarify our intent. I would also like to take this opportunity to let my colleague know how much I enjoyed working on this issue with him as well as so many other matters. I want to thank him for his commitment to this issue, and for the excellent work of Susan Kaplan and Amy Isbell of his staff, and I want to ensure him that although he will not be here next year to continue his work in the Senate on this matter, I fully intend to carry on the fight for us both.

TRIBUTE TO SENATOR CLAIBORNE PELL

Mr. HOLLINGS. Mr. President, as others have noted, this is a season when we are used to witnessing the departure of some of our colleagues who have chosen to end their careers here in the Senate to pursue other interests. And again, as others have noted, this particular iteration of these departures is notable, not only because of the numbers of our friends who are going on to other pursuits, but more importantly because of the quality of their contributions while they were here, which we now face doing without. Our

departing colleagues have distinguished themselves as statesmen and patriots, one and all. But even among giants, there are always those who stand even a little taller.

CLAIBORNE PELL has devoted much of his life in service to his Nation—4 years in the Coast Guard in World War II; 23 years in the Coast Guard Reserve; 7 years as a foreign service officer in Europe following World War II; all in addition to his remarkable 36 years of service to Rhode Island and this Nation as a U.S. Senator. In these historic 36 years, which have included some of our Nation's greatest and most contentious challenges, CLAIBORNE PELL has graced these Halls and the debates and legislative struggles therein, with reasoned insight, deft statesmanship, and calming counsel. In this body when even Will Rogers might, from time to time, have discovered the exception, CLAIBORNE PELL served with dignity, garnering the respect and affection of us all. We all owe him a debt of gratitude for his example, not only of service to his Nation, but for his dignity and demeanor in the conduct of that service. This body and this Nation will miss him. We wish him and his charming wife, Nuala, the very best.

TRIBUTE TO SENATOR J. BENNETT JOHNSTON

Mr. HOLLINGS. Mr. President, I rise today to pay tribute to one of the South's great men and one of the Nation's great legislators, Senator J. BENNETT JOHNSTON. Back in January 1995, when Senator JOHNSTON announced he would not seek a fourth term in the U.S. Senate, I thought then that we were about to lose a master of the legislative process and a true gentleman.

Whether working on the Naiton's energy policy or working to address the nagging problem of nuclear waste storage, you could count on Senator JOHNSTON, a master negotiator, to solve all but the most contentious problems before they reached the public eye. You could bet your boots that BENNETT JOHNSTON would not take an issue to the floor until he had those problems solved or knew the issue so well that no Senator could challenge him on the facts. As my colleagues know, he knows more than all of us combined about the intricacies and complex details of every energy issue, even the most complex and technical.

As chairman or ranking member of the Senate Energy and Natural Resources Committee and the Energy and Water Appropriations Subcommittee, Senator JOHNSTON has placed his stamp on Louisiana and the Nation. I remember his dogged determination in passing the National Energy Security Act, a major revamping of the Nation's energy policy. Time and time again, he defeated attempts to kill the legislation and shepherded the bill into law. I also remember his work on an issue which is of great importance to my State—that of nuclear waste disposal. BENNETT JOHNSTON has carried this program almost single handedly, and, although we still have a ways to travel before putting this problem to bed, without Senator JOHNSTON's work, we would be light years away from a solution. For all this, the people of Louisiana and the Nation are grateful.

I think the thing which the Senate will miss most is Senator JOHNSTON's ability to solve the most contentious problems in a congenial manner. In that sense, he reflects the best of the South—that of being a gentleman. No matter how heated the debate or controversial the issue, Senator JOHNSTON had a smile on his face and treated his opponent with respect. In today's political climate, it is this attitude which we will miss most.

As I mentioned earlier, Senator JOHNSTON amassed a long list of accomplishments during his career in the Senate. A career which began 24 years ago, and, if he had chosen to pursue reelection, could have continued indefinitely.

When Senator JOHNSTON announced to the Senate that he was leaving, he quoted the great Senator Russell M. Long of Louisiana who said, "It is important to retire as a champ, and to leave the stage when the crowd still likes your singing."

Mr. President, the Senate still likes Senator JOHNSTON's singing, and I hate to see him exit the stage. As Senator JOHNSTON leaves, I congratultate him for all his successes and wish him and his charming wife Mary the best. We will miss them.

TRIBUTE TO MARK HATFIELD

Mr. HOLLINGS. Mr. President, I am sad when thinking of the Senate's impending loss of so many Members, especially of Senator MARK HATFIELD. Senator HATFIELD and I have been friends since 1958, when we both were young Governors of our respective States. MARK HATFIELD is smart, tough, and independent and an unfailing gentleman. Although we do not agree on every issue, I know that when MARK HATFIELD votes he votes with his conscience. A man of conviction is a man of quality and as one, Senator MARK HATFIELD transcends all partnership.

It has been a pleasure and an honor to work with Senator HATFIELD. Although we are from opposite sides of the aisle and the country, we have many shared interests, including Coastal Zone Management and NOAA, that agency so essential to the well-being of Oregon, South Carolina, and other coastal States. However, Senator HATFIELD'S attention extends beyond the general populace to those who are most vulnerable and often lacking a strong voice. Time and again, MARK HATFIELD has put himself on the line in the fight for economic and social justice, often at political risk. He is willing to take a stand on the hard issues. One program to benefit under his watch is the Legal Services Corporation, an organization which provides legal counsel to the indigent.

Oregon and the Nation is losing a valuable public servant and statesman in Senator MARK HATFIELD. He and his lovely wife, Antoinette, will be missed by all. We wish them the very best as they return to the State they love so well.

TRIBUTE TO RETIRING SENATORS

Mr. ROTH. Mr. President, I want to take a few movements to salute all of our colleagues who are retiring from the U.S. Senate. These are individuals of uncommon character and devoted service—individuals who have strengthened their Nation and enriched each of us who has had the opportunity of serving with them.

We all know who these 13 Senators are. In retiring, they will undoubtedly affect the composition and character of this important legislative body. Over the weeks, these Senators have been recognized by their associates, colleagues, friends and constituents. Many tributes have been offered here on the floor.

Today, I would like to express my personal gratitude not only to all 13, but to several Senators who had a particular influence on me, the committees on which I serve, and our agendas in those respective committees.

Senator HOWELL HELFIN is retiring after three terms as the honorable Senator from Alabama. In our years of working together—getting to know each other in our service to the North Atlantic Assembly—I have grown to appreciate and admire this great gentleman. He has judicial temperament, one that I imagine was carefully cultivated in the many years which prepared him for his service here in Washington.

Senator HEFLIN has a keen understanding of diplomacy and America's eminent position in the world. His dedication to the North Atlantic Assembly, our international interests, along with his service in the Senate, and to his fellow Alabamans qualify him for that honored distinction of statesman. And I feel richly rewarded for the time I've been able to spend with him.

Senator DAVID PRYOR, also retiring after three terms, is another colleague I want to salute personally. He's the other half of the fly-before-buy duo. Together we worked to create the operational and live fire testing laws for weapons. He was critical in our efforts, instrumental to our success.

Many authors and military personnel have documented the lives saved as a

result of problems discovered and corrected in operational live fire tests. In other words, there are men and women today who, perhaps unknowing, owe a great deal of gratitude to Senator PRYOR and his tenacity in seeing this legislation through.

Despite many attempts to ignore and circumvent these laws by the defense buying bureaucracy, Senator PRYOR and I provided rigorous oversight, regardless of which party controlled Congress. When the Democrats were in charge, Senator PRYOR chaired the hearings. I chaired when Republicans were in charge. Our objective was never lost, and the work moved forward. Our commitment was always to the courageous soldier in the field—the individual dependent on the weapon systems.

Another Senator with whom I've had the pleasure of working closely is SAM NUNN, one of the most honorable, fair and bipartisan leaders I've known. SAM and I have alternated between chairing and serving as ranking minority member on the Permanent Subcommittee on Investigations since 1981. On many occasions, our staffs worked together on joint investigations.

We launched the first congressional investigation identifying crack cocaine as a significant drug problem. We investigated airline safety, and explored the Justice Department's handling of the Jackie Presser ghostworkers issue. Senator NUNN has been a staunch opponent of waste, fraud, and abuse, and he has gained world renown as an expert in matters of defense and foreign affairs.

Most recently, he and I launched the first investigation of Russian organized crime activities in the United States, continuing PSI's longstanding history of being Congress' primary organized crime investigator.

I am also grateful to Senator NANCY KASSEBAUM and her leadership in health care. NANCY is another one of the profoundly thoughtful Senators who serve as the catalyst for important policies and laws. She was certainly a catalyst in the effort to successfully pass the medical savings account demonstration program, as part of our effort to make health care more accessible for Americans.

Another retiring Member of the Senate, after five terms in Senator MARK HATFIELD, a man whose dedication to principle has distinguished his career in the State House as well as on Capitol Hill. Among his many legislative successes, I'm grateful for Senator HATFIELD's work on behalf of Amtrak, as well as his objective analysis and contributions to debates and initiatives through the years.

Likewise, HANK BROWN, and his rugged, no-nonsense approach in promoting a strong foreign policy and fiscal responsibility. HANK and I have served together on the North Atlantic Assembly, and we have joined efforts to strengthen the North Atlantic Treaty Organization. His eloquence and clear logic make him unusually effective and a pleasure to work with—not to mention his love for St. Bernards—another devotion we share.

I appreciate BILL COHEN, our distinguished senior Senator from Maine. Senator COHEN is a noted novelist, a poet. I've found many of his speeches brilliantly enriching, especially a speech he gave a few years ago about the changing culture around us. BILL has been a dogged proponent of cutting waste, fraud, and abuse on the Government Affairs Committee, and he has been active in our efforts to understand and build relationships of trust with the nations of the Pacific. He will be remembered not only for his work with ASEAN, but for his efforts on behalf of NATO, and his chairing of the Munich Conference.

Finally, Mr. President, I want to recognize Senator ALAN SIMPSON, a good friend and revered colleague. There are few men who become legends in their own time, but AL is certainly one of them. His easy-going, affable manner and ready wit were equal to his majestic stature and trademark smile. There hasn't been a time when AL's opened his mouth to speak that I haven't waited in anticipation for some new sparkling gem of wisdom, a witty turn of phrase, or an outright joke.

AL taught us, as his mother taught him, that humor is the irreplaceable solace against the elements of life; hatred corrodes the container it's carried in. With his humor, he could diffuse even the most impassioned and tensely difficult moments.

It was AL who, during one very difficult period—a period of some contention on this floor—told us of the successful marriage philosophy he shares with his wonderful wife, Ann. It was a simple philosophy: "Never go to bed angry * * *" he said. "Always stay up and fight!"

During another heated moment, in the middle of the confirmation hearings on Judge Robert Bork, AL reminded us, with his western charm, the "Everyone's entitled to their own opinion, but not to their own facts."

And it was AL who taught us how to deal with the media. Once, when pressed for his church preference, he answered: "Red brick!"

Indeed, as the liberal commentator, Mark Shields, has recognized, "AL SIMPSON is a man of uncommon wisdom." With his retirement, he not only leaves behind a rich legislative legacy, and dear memories for friends, but a reputation akin to that which attends Will Rogers. I can only imagine that in the years and decades ahead, AL, like Mark Twain, Will Rogers, Winston Churchill, and other great wits, will come to inherit aphorisms and jokes that he never told. But then, those of us who know him, realize that he truly deserves such an honor.

It has been my pleasure to serve with Senators SIMPSON, COHEN, BROWN, HATFIELD, KASSEBAUM, NUNN, PRYOR, and HEFLIN—as well as with Senator SIMON, who we saluted with our bowties last week, Senator BENNETT JOHNSTON—four successful terms from Louisiana, Senator EXON, and Senator BRADLEY, who I've had the pleasure of serving with on the Finance Committee. And I appreciate Senator PELL, another fine leader who leaves a great legacy, both at home and abroad. Mr. President, I salute all those who are retiring this year. Each has lived a life in deeds, not words, and in their actions have written their legacy on tablets of love and memory.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FEDERAL AVIATION ADMINISTRATION—REAUTHORIZATION CONFERENCE REPORT

The PRESIDING OFFICER (Mrs. HUTCHISON). Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 3539, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 3539, an act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, there shall be 3 hours for debate on the conference report, with the time to be equally divided between the two leaders.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, the Senate now is going to continue its work on the Federal Aviation Administration reauthorization bill.

TRIBUTE TO ADMINISTRATOR HINSON

As we start that, I want to take a moment to pay tribute to that Agency's leader, David Hinson.

As many Members of the Senate know, Administrator Hinson will be leaving his post later this year, and he will return with his wife, Ursula, to their home in Idaho.

I just called him Administrator Hinson. That is tough for me to say because over the last years, those of us who have worked with him always called him David. He is a very approachable guy and one who we understand. He comes from the West. In my State, where aviation is very critical and more than 75 percent of our communities can be reached only by air,

David has become well known. He has been to Alaska several times. He had to cancel a recent visit with our air carriers because of the tragedy of TWA Flight 800.

But he is continuing to work on solutions to our problems, particularly the problems that we are experiencing at the Juneau International Airport. Two critical departures have been revoked, and David is working with safety personnel to try to find a way to make those departures safe for travelers in and out of our capital city.

As Administrator, Mr. Hinson has set the FAA on a good course, working with a very competent assistant and associate administrator, Linda Daschle. He has been able to urge Congress to address the FAA's future funding needs, and he has worked to improve commuter airline safety and, with the help of Congress, has streamlined procurement rules within the FAA.

He is someone I have found very interesting, because in his younger years, he flew in and out of my State as a commercial airline pilot.

He was flying for the old Pacific Northern Airlines. He knows what it means to be involved in commercial aviation. He knows the people who do the flying. I think that is the most important thing.

The FAA people have a tough job. When a plane crashes, we are all inclined to look for someone to blame. Often the finger pointing begins with the FAA itself. But the FAA's record of ensuring safety for us in our skies is unparalleled by any nation in the world. We move in an enormous number of planes and passengers every day, every week, every month, every year.

While no institution is perfect, and it is very difficult for any administrator to really get much of a hold on an entity that has such a long tradition as the FAA, David Hinson has worked with his team to really promote improvements to safety.

I am one Senator who has urged Administrator Hinson to stay on. But he has had a call that I think very few people can resist and that is from his grandchildren, I understand, and his wife and children. It is unfortunate that we are going to lose David Hinson as the Administrator of the FAA.

Madam President, he is honest, straightforward, clear thinking, and he deserves the thanks of the American people for what he has done.

The FAA, under his leadership, has brought about a great many innovations. One to me as a pilot that I find most interesting is the approach that has been given by the FAA during this period to utilizing new technology. He has moved forward through the terminal Doppler radar weather and Air Force surface detection equipment and brought us into the 21st century with a whole series of new innovations.

But above all, one of the things that has probably been the most startling has been the FAA's augmentation of the GPS system to enhance navigation signals throughout the United States.

The FAA's approach will allow the airlines to use GPS for precision approaches to airports even in bad weather when vision is severely limited by smog and bad conditions. They did the initial design and procurement work on the accelerated timetable, cutting at least a year off the delivery schedule. Early deployment of this system late in this decade will save airlines hundreds of millions of dollars annually due to more precise routings and fuel savings and increased airport efficiency.

I myself took a trip just recently with the GPS on a very small plane, and by virtue of using the GPS, together with our navigation system, we saved fuel, we saved time, and above all, we flew a safer route.

I think that the country ought to really realize what has happened in this period when David Hinson, a man with a background in aviation, has been the Administrator. He has brought us a new FAA, an FAA that is not afraid of competitiveness in the industry, who wants and understands growth in the industry, and it has been a period of time when even general aviation has expanded and the costs to general aviation have decreased.

It is now, I think, a challenge for whoever takes his place to find a way to really ensure that there will be a continued place for general aviation in our aviation programs in the United States. Some people want to sort of squeeze out the private jets, the private aircraft, the small planes and believe that they are inefficient and cause difficulty within the system.

That is not true, Madam President. There is room in our Nation's airline and airways system for every type of plane. I do believe that we will improve on what Administrator David Hinson has done to ensure that we have not only the best and the most active, but we have the safest transportation system in the world.

I do very seriously commend him for his actions. I wish him well. He has had a very great impact on the bill that is before us, Madam President, and has continually visited all of us to assure that we try to put aside differences that we might have and get this bill passed.

This bill, Madam President, contains many vitally important aviation safety and security provisions. No single provision is more important than title VII, which provides long overdue assistance to the families of victims of aviation disasters.

This provision absolutely must be adopted. It is one of the provisions where the survivors of victims of various aircrafts came to those of us on the Commerce Committee and urged us to have a hearing. We did have a hearing. We readily discovered that the families of victims of past air crashes have suffered a great deal.

The most recent tragedies, of course, involved ValuJet's flight 592, TWA's flight 800. Those brought forward the issue of the treatment of victims' families in the wake of aviation accidents. More and more of these accidents involve larger and larger jets, more people and more difficult circumstances.

As I said last week at the Commerce Committee hearing on the treatment of victims' families—I was pleased to be there with the distinguished Senator from South Dakota, Senator PRESSLER; the hearing was held at his request. He urged many of us to come and listen to these people.

We heard from family members who have lost loved ones in five aviation disasters. These witnesses eloquently shared their harrowing experiences. Each witness urged us the same thing, Madam President. That is my point for speaking about this. They urged that we include House bill 3923, the Aviation Disaster Family Assistance Act of 1996, in the reauthorization conference report.

After several hours of hearing, the FAA reauthorization conferees met and unanimously agreed to include H.R. 3923 in the compromise reauthorization bill as the families have requested.

This provision will improve the notification of families, protect the privacies of grieving families, improve the overall treatment of family members, and ensure family members have better access to accident-related information.

The family assistance title of this FAA bill, which is being blocked here now temporarily—I hope just temporarily—will require the National Transportation Safety Board to designate an NTSB, one of their own Board employees, as the family advocate for each commercial aviation disaster—they will designate an independent organization, such as the Red Cross, to coordinate care and support of the families—and to coordinate the recovery and identification of accident victims, to brief families before press briefings, and to—let me emphasize that—to brief the families before they brief the press. All of them said they have a right to know before they hear it on the television or over the radio or read in a newspaper what has happened.

This is one of the key provisions of this bill. It is one of the reasons the bill must be passed this year. We cannot wait until next year for that basic change. It tells people involved, in assembling information about these disasters, to brief the families involved first and inform the families of public hearings on the accident and allow those families to attend any public hearings.

The family advocate created by this legislation will assist grieving families by acting as the point of contact within the Federal Government for the families, acting as liaison between the families and the airlines and obtaining passenger manifests and providing manifest information to families who have requested it.

Madam President, I spoke to members of the airline industry. They welcome this concept. They welcome having someone who is known to be the person in charge of information for family information.

This family assistance provision in this legislation will also require the National Transportation Safety Board to designate an agency, such as the Red Cross, to assist grieving families, as I said. That agency would coordinate the care and support of families, meet with families who come to the scene and contact other families who cannot, provide counseling for the families, ensure privacy of the families from anyone, whether it is media or lawyers, whomever it might be, communicate with families about the role of Government and the agencies and airlines involved, and arrange for suitable memorial services when possible, obtain the passenger list, and use it to provide information to the families, and use the airlines' resources and personnel to the extent practical.

Now, this family assistance provision, Madam President, would require airlines to take a number of steps to compassionately work with families of aviation tragedies. Airlines would be required to publicize a reliable toll-free number and provide staff to handle calls from families, to notify families as soon as possible of the fate of their loved ones, in person if practical, using suitably trained individuals to give out that information, provide the passenger list to the NTSB family advocate and to the Red Cross immediately. Even if the names on the list have not been verified, they must start immediately working with the NTSB and the Red Cross.

Further, they must consult with families before disposing of the remains and personal effects of the passengers, and return the passengers' possessions to the family, retaining all unclaimed possessions for 2 years. In other words, they must keep them 2 years in order that family members who may finally get information about their loved one could reclaim possession for up to 2 years.

They must consult with the families about any monument for the accident and treat the families of nonrevenue passengers and victims on the ground the same as any other people involved. Finally, they are directed to work with the Red Cross to improve the treatment of families.

Madam President, these compassionate and comprehensive measures to assist families of aviation disaster victims are now in this bill. If the bill is changed in any way, and fails, it will be at least another year before we get back to this point. The pleas of families who very much want to ensure that families of victims of future aviation disasters are treated better than they were will be ignored if this bill is not approved at this session.

I think it is absolutely necessary for us to approve this conference report.

Madam President, I ask unanimous consent to have printed in the RECORD excerpts of statements and testimony of victims and their families that really moved the committee.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

TESTIMONY OF RICHARD P. KESSLER, JR., HUSBAND OF KATHLEEN PARKER KESSLER, A PASSENGER ON VALUJET FLIGHT 592

My name is Richard P. Kessler, Jr., a citizen of the United States and the husband of Kathleen Parker Kessler, a passenger on ValuJet Flight 592, who was killed on May 11, 1996, when Flight 592 crashed into the Everglades near Miami. I am also a practicing attorney in Atlanta. As I stated, I am a citizen of the United States, but the laws of the United States did not protect me, my daughter or the families of the other passenger victims.

It has been over four months since the crash, it doesn't seem that long. During the first two months following the crash, I witnessed the best and the worst of human behavior. The best of human behavior was demonstrated by the people of Miami; the federal, state and city agencies who assisted the families of the victims and conducted the search for the remains of the victims; the volunteers; the counselors; and especially one volunteer, Victoria Cummock, a victim's advocate and President of Families of PAN-AM 103 Lockerbie. The worst of human behavior was demonstrated by members of the press, the electronic media, and the members of my legal profession.

* * * * *

I urge the Senate to introduce and pass a Bill exactly like HR 3932 that has passed the House and attach amendments that provide for pilot vision equipment, passenger smoke protection and smoke detectors and fire extinguishers. I am told that pilot vision cost per ticket is less than one cent; passenger smoke protection is less than five cents per ticket and penny or two for smoke detectors. Given this cost which is recouped from the flying public, how can ValuJet or any other airline be allowed to fly citizens of the United States without outfitting their planes with such equipment that is available in the marketplace?

I am dedicating the next two years of my life to help bring about better treatment of families of victims and the change of the paradigm that is used in these personal injury disasters. My wife died on Flight 592, but she is in Heaven, I know, because she had God give me two signs that were witnessed by other people. As a trial lawyer she would want the paradigm that we now employ in these disasters to be changed to protect the interests of all parties.

I do not want the families of the victims of the next airline crash to endure the emotional rape that we had to endure following the crash of Flight 592. The next victim could be your wife, daughter, son or parents.

TESTIMONY OF KENDRA ST. CHARLES, OF USAIR #405

Chairman Pressler, it is with great pleasure that I appear before you and your fellow colleagues today. Hopefully, we can change the way families are treated after an airline disaster by enabling the NTSB to designate an independent nonprofit organization (like the Red Cross with professionally trained grief and disaster counselors) to give care and support during this horrific time. A key provision in the House Bill.

On March 22, 1992, I was a passenger aboard USAir #405. We had been delayed at New York's LaGuardia Airport as a snowstorm had begun. As we sat on the runway, I looked out the window watching the snow continue to fall and assured myself that "they" would never let us attempt to take off if it were not safe.

After a thirty-five minute delay, we were finally cleared for take off. Moments after we were in the air, the plane went violently out of control, cart wheeling down the runway crashing upside down with part of it in Flushing Bay. I survived the impact and subsequent explosion, I survived being projected through a fireball and landing in Flushing Bay. I survived nearly drowning, as my seat belt held me under the water. I unbuckled it and was able to wade through the fiery waters, not unlike the scene from TWA 800, to make my way to shore. I was one of the lucky ones. I had survived a living hell, but it did not prepare me for the treatment I was about to experience from the airline and insurance company.

Unconscious and barely clothed (my clothes had been ripped off during impact) I was taken to a hospital with no means of identification. As I was fighting for my life, my sixteen year old daughter was at home watching television waiting for me to return home. Suddenly the Sunday night movie was interrupted by a report of an airplane crash. Her worst fear was about to come true. She immediately called the 800 number that was flashed on the screen. It was busy. All alone she sat motionless in disbelief watching the media coverage of the crash she feared I was on. Rescue workers were shown pulling body bags from the wreckage. Still she was not able to get through to receive any kind of information. As my family arrived at my home to support my daughter, they too met with the frustration of not being able to receive any confirmation by either the 800 number or USAir directly. Finally, out of desperation, my brother drove to the airport in a blizzard to confirm that I was aboard the doomed flight.

In the hospital the doctors were unsure if I would live. I was hooked up to a respirator that forced oxygen into my punctured and burnt lungs for three days. I spent three weeks in the burn unit until I able to return home. During my hospital stay the person that I was to rely on for assistance and to help coordinate my needs as well as my family's needs was an untrained USAir ticket agent whose main concern was to find any pre-existing conditions that I might have for the purpose of future litigation. To expect that the same people who had almost killed me were now going to be my caretakers was very confusing. Not only were they not trained for any kind of crisis intervention, but there was a direct conflict of interest. They were more interested in what kind of disability insurance I might have—to know

how long I could afford to live without an income. In other words, how desperate I was to settle any damage claim.

My physical and emotional recovery continued for several years. During that time I was under the care of doctors and physical therapists whose services were to be paid for by the insurance carrier. Several months would pass without any kind of payment. Clearly the airline was attempting to put pressure on me in any way that they could. I soon realized that once the media stopped filming the "sympathetic airline officials" that they were actually more like a brand of angry pit bulls waiting to attack the victim for a second time.

Unfortunately, I have witnessed this same inhumane treatment of families by the airline in other aviation disasters. USAir 427-American Eagle 4184-Valu Jet 59—and now TWA 800. The need for change is long overdue. There will be another snowstorm. There will be another delay—whether it be at LaGuardia or another airport. Regretfully, there will be another crash. I implore you to act now before another family suffers the horror that mine did. Our children deserve better, we the people deserve better.

Thank you for your consideration.

TESTIMONY OF VICTORIA CUMMOCK, PRESIDENT, FAMILIES OF PAN AM 103/LOCKERBIE

My name is Victoria Cummock. Today, I have come to present testimony as the widow of John Cummock, a 38 yr. old passenger who died along with 269 people, during the terrorist bombing of Pan Am 103 over Lockerbie, Scotland. I have also come here to present testimony as President of Families of Pan Am 103/Lockerbie and as "a long time observer" and victims advocate having been involved in disaster response work over the past 8 years and most recently with the families of TWA 800, Valujet 592 and the Oklahoma City bombing. Although, I am a Commissioner on the White House Commission on Aviation Safety & Security, which was formed on July 25 by President Clinton and is Chaired by Vice President Gore, please note that my testimony here today does not reflect the views of the White House Commission.

* * * * *

Over the past year the House Aviation Sub-Committee has worked very closely with families of numerous air disasters. After holding various hearings, legislation was drafted to specifically address these issues. HR 3923 embodies what air disaster victims families have cried out for, time and time again . . . for years. It provides families of air disaster victims, the same quality of professional disaster care, currently given to all Americans during all other types of disasters, whether natural or man made. This legislation expands the role of the NTSB by placing the NTSB in the lead coordinating role, to manage all aspects air-disaster response and victims' family care.

HR 3923 enables the NTSB to designate an independent nonprofit disaster organization (like the Red Cross, with certified grief counselors and disaster professionals to care for the families). This will insure humane and uniform treatment, by providing a professional disaster response thus avoiding future mis-handling, conflicts of interest or abuse of authority by airlines. We strongly support this change and respectfully ask the Senate to adopt the House language and pass this legislation on to the President desk to sign. More planes will go down for different reasons. Let's not wait for another disaster before we implement this change.

* * * * *

STATEMENT OF DARIO J. CREMADES, FLIGHT 800

Good morning Mr. Chairman and Members of the Committee. I wish to thank you for allowing me to present my views on S.R. 253 and H.R. 3923, the Aviation Disaster Family Assistance Act of 1996. Although the testimony I am presenting are my personal views, they are shared by many other families of victims of flight 800.

In spite of all the ink that has flown since TWA flight 800 exploded and fell into the Atlantic, these are things that have remained unsaid and which deserve to be told. Because the wounds that this disaster has left in its victims will only heal if adequate measures are taken to prevent it from ever happening again.

Our story really started on the eve of July 17th, 1996 when, after having supper, we sat to watch television in our apartment's living room in Manhattan. The scheduled programs were interrupted by news briefs, informing us that an accident had occurred at about 8 pm, off the coast of Long Island shortly after the plane departed from JFK. Our mood was somber and concerned about the tragedy, keeping in the back of our minds the departure of our nephew Daniel, 15 years of age, bound for Paris that same evening.

* * * * *

In light of the prior statement, our family feels H.R. 3923 and S.R. 253 combined and expanded reflect the needs of the families of TWA flight 800 and tries to correct some of the issues presented in this testimony and we support its implementation into law. But we also propose the following specific recommendations to consider.

HANS EPHRAIMSON, FAMILIES OF KOREAN AIRLINES 007

Mr. Chairman: Your initiative to hold a Hearing on air crash passenger issues at short notice is welcomed. We thank your Committee and its hard working staff.

We endorse H.R. 3923 as passed by the House of Representatives and regret not to have had the opportunity to participate in the legislation contemplated by the Senate, hoping that the issues, that have to be urgently addressed in the wake of the TWA 800 tragedy be incorporated in the forthcoming legislation.

Mr. STEVENS. For instance, Kendra St. Charles, who was a passenger aboard the USAir flight 405 appeared before us, just an incredible statement concerning her personal survival from that crash. She was taken unconscious and barely clothed to a hospital, and had no means of identification. She found her 16-year-old daughter was at home watching television and had the Sunday night movie interrupted with a report of the airplane crash. When she called the 800 number that flashed on the screen, she had no way to find out what was going on.

She said, "Hopefully, we can change the way families are treated after an airline disaster by enabling the NTSB to designate an independent nonprofit organization—like the Red Cross, with professionally trained grief and disaster counselors—to give care and support during this horrific time."

I commend to all the testimony of Kendra St. Charles.

We heard from Victoria Cummock, a dedicated woman whose husband was a survivor of the Pan Am 103 Lockerbie disaster. She has been responsible for working with various people throughout the country to try and urge a different way of dealing with the survivors of victims of air disasters. She specifically came to our committee and urged we look at H.R. 3923. She said, this "embodies what air disaster victims have cried out for time and time again * * * for years. It provides families of air disaster victims the same quality of professional disaster care currently given to all Americans during other types of disasters, whether natural or manmade."

She made a great impression on me. We should all thank her for the work she has done to bring about the Coalition of Families of Aircraft Disasters.

We also heard from Richard Kessler, Jr., who was the husband of Kathleen Parker Kessler who was a passenger on ValuJet flight 592. He came to us on the Commerce Committee and made this statement:

I urge the Senate to introduce and pass a bill exactly like H.R. 3932 that has passed the House, and attach amendments that provide for pilot vision equipment, passenger smoke protection and smoke detectors, and fire extinguishers.

We did not have the time to do that because of the situation that existed at the end of Congress, but we have adopted that bill, H.R. 3932, as an amendment to this conference report. It is in this bill.

We also heard from Dario Cremades. He appeared with regard to the treatment of families of aviation disaster victims. He particularly referred to the TWA flight 800. He had some very difficult problems. I commend his statement, likewise. He said:

In light of the prior statements, our family feels H.R. 3923 combined and expanded reflects the needs of families of TWA Flight 800 and tries to correct some of the issues presented in his testimony.

He urged us to support that House bill.

Lastly, Hans Ephraimson-Abt is one of the members of the families of the Korean Airline 007 disaster, an aircraft that took off from my home city, and we all know was shot down as it went westward from Alaska. He told us that his group supported the passage of House bill 3923, and he very much wanted to have us enact as quickly as possible that and other matters. The other matters, unfortunately, will have to wait until next year.

The point, Madam President, is that this bill contains the whole bill H.R. 3923, which is very much sought by all of those who have come before the Congress who represent families of those who have already suffered so much as a result of airline disasters. I think it would be a travesty if we have to go back and start all over next year and have it be more than a year before we get this legislation passed. Aviation

welcomes it, the Red Cross welcomes it, the people who have been involved in these instances in the past welcome this legislation, and it is absolutely a must that we pass this bill this week without amendment and get it to the President.

I yield the floor.

Mr. FEINGOLD. Madam President, I thank the Senator from Massachusetts for his tremendous leadership on the issue before the Senate today, and of course for his leadership on all issues relating to working people.

I come to the floor today to speak about the issue that is holding up the passage of the FAA reauthorization bill. As the Senator from Alaska was just indicating, that is the problem we have, the bill is held up and it does need to go forward. The problem that some of us have is with the item that has been added to the conference report. What I am talking about is an effort to give special treatment to one company—the Federal Express Co.—by subverting standard labor law requirements in order for this company to be able to avoid unionization.

Maybe this is just part of a larger agenda. I think it is part of a larger agenda, symbolized by aspects of the Contract With America, which represented an assault on the working people of this country. In a sense, this is one more kick from that contract at working people.

Like all of my colleagues and all of us on this side of the issue have said, we understand the importance of reauthorizing the FAA. No one, absolutely no one, wants to jeopardize in any way the safety of our Nation's air travelers and personnel. I, like all of my colleagues, supported this critical bill when the Senate passed it earlier this year. But as we have heard repeatedly now, the bill that passed the Senate did not contain—did not contain—the controversial antiunion provision that has now been inserted into the conference report.

The other side of this debate has conveniently mentioned over and over again the unanimous vote in the Senate, but has also conveniently failed to mention the fact that this controversial provision was not part of the bill when that unanimous consent vote was held in the Senate. Also, Madam President, this provision was nowhere to be found in the House version of the bill, either. So it truly has no place in the conference report that is before the Senate today.

Now, I realize, having been here for nearly 4 years now, that inserting material into a conference report which has not been considered by either body has become almost commonplace in the Congress.

Madam President, that doesn't make it right, and it doesn't make it the right place for the sponsors of the Contract With America to administer one more blow to the working people of this country.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. FEINGOLD. I yield to the Senator from Massachusetts.

Mr. KENNEDY. As a matter of fact, the House Parliamentarian said it was outside the scope of the conference, and it was the only item that required an independent vote in the House of Representatives, other than the conference report, just to point out the validity of the Senator's statement. The Parliamentarian, who does not have a special interest in this particular matter, who neither favors it being in or out, but who is just ruling on the basis of an objective standard, said this is outside of the conference and, therefore, it is the only item beyond the conference report to require a special vote.

I just wanted to ask the Senator, does that not help sustain the point he is making that this particular item was nowhere, either in the House or Senate bill, and just came at the very last moment?

Mr. FEINGOLD. I thank the Senator from Massachusetts. It does that and more, because it ties in with other facts that the other side can't deny. Not only was this item treated in the way the Senator indicated, not only was it not part of the Senate bill, or the House bill, but we have also had analysis by the CRS, an independent agency that we rely on, saying that the deletion of the term "express carrier" in the ICC Termination Act of 1995 does not appear to be a technical error. I will say more about that in a moment.

These are the slender reeds that the other side are resting on—that everybody voted for this bill originally, even though this provision was not in it, and it was somehow a technical error. This is not much to rely on. When you have a special interest provision of this magnitude, maybe that is what you do.

Madam President, this provision would help Federal Express resist the efforts of its workers to unionize. That is the purpose of it, whether you call it technical, or whether you call it a drafting error. The fact is that the purpose of it is to stop possible unionization. It has already been rejected by the Senate Appropriations Committee. Let me repeat, the Appropriations Committee rejected the amendment. Yet, somehow it reappeared on the table during the bill's conference, and it was inserted into the conference report, where proponents felt it was well protected from attack. I want to repeat that phrase: Where it was well protected from attack.

Again, I have been here almost 4 years. I know about the idea of trying to put the stuff that you want through on what is called a must-pass bill. People back home are catching on to it, too. I watched it when we had the legislation to help out the folks in California after the earthquake. That wasn't one of the bills we weren't sure was going to become a law. We knew we had to help the people in California. So money was tacked on for Pennsylvania Station, the space station, and so on. It is a vehicle you use to try to avoid having items have to stand on their own weight in front of the Congress. When this item was placed before separate votes in the Congress, it didn't make it. So the American people are catching on to this kind of abuse of the legislative process.

Madam President, this is another similar vehicle, another must-pass bill. It wasn't chosen by chance. You will notice that a separate bill to correct this so-called technical error wasn't going anywhere. No chance. Proponents put it on the FAA authorization bill and said, "We are sorry it was snuck in there, but we have to pass the bill." That is the game. It is an insider game. But people are catching on.

This one was just a little too much, and to have it thrown on such a very, very important bill for our airports across the country seems like just a bit too much to me. Some may say, well, as of January, we have a line-item veto. The President can line out something like this. Of course, the new line-item veto authority does not extend to this kind of provision, but though I have never advocated extending the line-item veto authority beyond removing excess spending items, if the President had a broader authority, this is certainly one situation where it would be a good policy to take this piece of special interest legislation out of this bill.

So the practice will continue, unless we here and people across the country say, wait a minute, we don't want laws made this way. We don't want one company to be able to push its weight around and shove this provision into a bill and say it absolutely has to pass, regardless of the merits of the provision, because otherwise we won't be able to help our airports.

Madam President, this is one of the most clear examples of special interest treatment I have ever seen. You know it, and I know it, and every Member of this body knows it. It's offensive and it doesn't belong on this bill. To accuse Members of the Senate of not caring about airport safety and the welfare of air passengers just because we object to this subversion of the rules is just disingenuous. We know what is going on here, and nobody can say this particular provision has anything at all to do with airline safety.

Supporters of the provision claim that it is simply a technical correction, to correct the accidental deletion of the term "express carrier" from the Railway Labor Act, which was amended in the Interstate Commerce Termination Act of 1995—a technical error.

My colleagues, does this look technical to you? Does all the controversy and anger on this issue look technical to you? It is not technical. The term was intentionally removed by the Congress last year, and has now been intentionally inserted into the FAA conference report by the Members of the conference committee. In fact, researchers in the bipartisan American Law Division of the Congressional Research Service say that the deletion of that term "express company" does not appear to have been inadvertent or mistaken. To the contrary, the deletion appeared to be consistent with the statutory structure and the intent of Congress. Moreover, it appears unlikely that Federal Express would constitute an express company, as that term is used in the proposed amendment.

That is the CRS analysis, Madam President, not a labor union. CRS is the Congress' own nonpartisan research service. Although the report and its author have been maligned here on the floor, I think those accusations have been unfair. We all rely on CRS for unbiased analyses of the facts. They say that this provision does not merely make a technical correction. It is a significant, substantive change. If there is one thing it is not, it is technical. This is a significant policy change, Madam President. It does not belong on this bill.

Moreover, it is interesting to note that Linda Morgan, Chair of the Surface Transportation Board, formerly the ICC, confirmed CRS's opinion that Federal Express would not qualify as an express carrier. In a recent letter to Congressman JAMES OBERSTAR, Ms. Morgan stated that when the term "express carrier" was in use, the ICC considered Federal Express to be a motor carrier, not an express carrier, as the company claims it was and would like to be considered in the future.

Let me just read briefly from that letter:

> The ICC considered FedEx to be a motor carrier.

She continued later:

> In a decision in 1934, the ICC concluded that express company operations wholly by rail, or partly by rail and partly by water, were subject to ICC regulation, but that an express company's motor carrier operations were not.

So this is a special interest provision, designed to protect the interest of one company. Now, we see these kinds of provisions often in tax bills, where one single company is given a tax preference like a special depreciation break or a tax credit. This provision, however, in my mind, is way out in front of the pack in terms of special interest benefits.

This provision, I want to reiterate, is designed exclusively for this single company, Federal Express, to allow it to impose special barriers to block unionization efforts among employees who transport cargo by truck. Other motor carriers, including FedEx's major competitor, UPS, are, in contrast, subject to the National Labor Relations Act and organize at specific localities. If FedEx truckers in Pennsylvania want to form a union, they should have that right, under the NLRA. But if this provision goes through, FedEx truck drivers across the Nation would all have to agree to a single nationwide bargaining unit or forfeit the right to organize. They would have to forfeit the right to organize. It is an awfully big hurdle. It is a hurdle intended to prevent unionization. That is not what the NRLA provides for millions of workers across the Nation. But under this provision FedEx would have the more stringent rules of the National Railway Labor Act applied to its truck drivers.

Supporters of the FedEx provision also claim that if we do not pass this bill this week, without amendment, that the safety of air travel will be significantly threatened. Again, this is a kind of blackmail attempt to stick a special interest provision in a bill and say that it can't be removed without jeopardizing the underlying vital legislation and then shift the burden to those who want to get the special interest provision out.

It is a good trick. But we are here today to say that it is unfair and that we have been willing and will continue to be willing to come out here on the floor of the Senate to indicate that it is not justified.

Let me just refer to a similar occurrence not too long ago on another item for which the distinguished Senator from Massachusetts was taking the lead on a bipartisan basis with the Senator from Kansas to try to get some semblance of health care reform in this country. Another provision like this got stuck in the Kennedy-Kassebaum bill. It was not until Members of the Senate objected loudly, strenuously, and publicly to that special interest provision that the proponents, with some embarrassment, suddenly agreed to have it dropped through a correcting resolution. That is what should happen right here. It should happen right now. This provision should be dropped so that we can get the FAA bill passed and signed into law in the next few hours.

Let me stress once again—because this is the whole heart of the opposition's argument—that they want to pretend inaccurately and unfairly that we oppose the underlying bill. We do not oppose the underlying bill. I would like to see the FAA be reauthorized before this Congress adjourns.

My colleagues, the Senators from Massachusetts and Illinois, have a bill ready—it is at the desk—that I support wholeheartedly. That is the bill we should be considering. It is the conference version of the FAA bill minus just this one offensive FedEx provision. But the other side will not agree to bring up that bill. It is they, not we, who are holding up the reauthorization of these important aviation programs.

So again, let us ask: Why is it so important to supporters of this provision that it remain in the bill? How can it be so important? After all, they keep saying over and over and over again that this is a minor technical amendment. Well, then why does Federal Express care so much that it be considered an express carrier? The reason is clear: They want to avoid unionization. That is the benefit to this so-called technical correction. Federal Express, and my colleagues who support their provision, understand how much more difficult it would be for Federal Express' truck drivers to unionize if they have to organize all of their employees nationwide as opposed to being able to form local unions.

In fact, Madam President, Federal Express' antiunion sentiment is, unfortunately, well documented. Federal Express Co. produces a manual called the Manager's Labor Law Book, which states that its corporate goal is to remain union-free. Of course, we all know that if Federal Express is able to maintain its union-free status, it will be easier for it to remain competitive with UPS. Like Federal Express, UPS' airline operations are covered under the Railway Labor Act. However, UPS' truck drivers are covered by the National Labor Relations Act, and they have been members of local Teamsters unions for decades.

Interestingly, Federal Express' trucking operations expanded in recent years. Some of their drivers have been attempting to organize, but they have, not surprisingly, met resistance from the company's management. The issue of whether the company's trucking operation is most appropriately covered under the NLRA or the RLA is currently in litigation.

So what is this? What is this provision today? This is a backdoor effort to win that dispute. This amendment has no business in this bill.

Mr. KENNEDY. Will the Senator yield on that point, because I think it is a very, very important one; that is, as the Senator is pointing out, this is a matter that is in litigation at the present time. This is a matter that is in litigation at the present time. What we are being asked to do is superimpose a legislative resolution on what is basically a judicial determination and thereby deny the rights of workers to make a judgment and decision under the existing law.

Does the Senator not agree with me that most people would understand that that is sort of changing the rules of the game, changing the goalposts in the third quarter, and that this is basically saying that for people who are

trying to play by the rules of the game, "Well, it is just too bad, you tried to play by the rules of the game, and we are not going to take a chance that you may reach a positive result. We are going to shortchange you and really stick it to you by undermining your legitimate interests by legislative solution"?

Is the Senator's opposition to this also based on his belief that we should not, at a time when there are matters in litigation, impose a legislative solution that would directly affect the outcome of that litigation?

Mr. FEINGOLD. Madam President, I thank the Senator from Massachusetts for his question.

Let me say, first of all, that I have the great honor and pleasure of serving with him not only on the Senate floor but particularly on the Senate Judiciary Committee. For one concerned with the independence of our judiciary and the relationship between the Congress and judiciary, this is a threatening prospect. I suppose incidents like that have occurred in the past in this great country. When the power of one single company cannot only move a Congress like this to jeopardize the reauthorization of a bill but do it in such a specific and targeted way as to try to undo the process in the courts is even more frightening.

It is not only a question for working people; it is a question for anyone. They should have the opportunity to go to court and have a matter resolved without some company being able to flex its muscles in the waning days of the Congress to undo their right to their day in court.

So I do think that this is an extremely important aspect of my opposition. I am opposed to it anyway, but it seems particularly inflammatory when this matter is being litigated at this time, as the Senator from Massachusetts has indicated.

It makes me want to just sort of add on to something that he has said to me earlier. This is part of a broader agenda. This isn't just an isolated moment where somebody decided to insert a provision to help a company. This is part of a broader agenda to shove back working people in this country so they can't get as organized as they need to be in order to protect themselves and their families. It is a broader agenda. It is a broader agenda that was very clearly articulated in that Contract With America about which we will have a referendum in a few weeks. So let us not just view it in isolation.

It is inappropriate. It does not belong here. It is a special interest item but part of a broader agenda that is willing not only to push its weight around in the Congress but to also try to override the procedure in our courts.

What we are faced with here today is a situation in which many Members of this body have worked very, very hard to craft a good bill. I praise all of them. I think they have succeeded. But, unfortunately, the conferees allowed a corporate special-interest provision to be attached to this good bill, and now we are being pressured to pass the bill and its offensive add-on quickly because the end of the fiscal year has come and because, as we all know, it is an election year and everyone wants to go back to their home States.

But to conclude, I think we would be making a larger mistake than usual if we do not remove this provision.

I urge my colleagues to support the Simon-Kennedy substitute, which will provide a clean FAA reauthorization. If the proponents of this provision would let us pass a clean bill, this measure not only could but I imagine would be signed within a few hours. It is the proponents of this special interest treatment for one big company, not the opponents, who, I am afraid, have subverted the legislative process.

So let us drop this provision, let us drop it now, and let us get a clean FAA bill passed.

Madam President, I yield the floor.

Mr. DOMENICI. Madam President, I ask unanimous consent that Peter Folger and Jessica Korn, fellows in my office the past year, be granted floor privileges for the remainder of the discussion today on this bill.

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

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, under the crunch of time, particularly during yesterday, we did not get an opportunity to recognize the comments of the distinguished Presiding Officer. I had the distinct privilege of serving with Wallace Bennett, of Utah. There is certainly no finer gentleman, certainly no finer Senator.

We lived in the same neighborhood and exchanged greetings over the weekends, and those kinds of things. I was powerfully interested, because I do remember the FAA bill at that particular time, as the distinguished Senator from Alaska recalls, when we worked on this with Senator Magnuson and others. This is a good bill. I acknowledge the contribution that the now-Senator BENNETT of Utah, the Presiding Officer, made to that legislation in its formative days. Hopefully, after tomorrow's vote, we can make gains in continuing to beef up air service, particularly in the area of safety.

I also did not get an opportunity to thank the distinguished Senator from Alaska. He and I have worked on this over the years. And I particularly am thankful for the leadership of the Senator from Arizona, JOHN MCCAIN. Senator MCCAIN has been like a tiger for a couple of years, trying to bring some changes to the Federal Aviation Administration.

I have come all the way around in my own mind to thinking in terms of a separate Federal Aviation Administration, a separate board, outside the department, because I am sure it would receive better attention and I am sure it would receive better performance.

The Presiding Officer was talking about John Volpe. I remember when John Volpe came on as the Secretary of Transportation. He and I had both served as Governors together. A lot of people have been working on this for a long time.

Let me get right to the point here with the distinguished Senator from Wisconsin, who gets really far afield talking about blackmail, sticking it to them, power grab and all of that. He asked, why is it important? It is very important to this Senator. None other than Mark Twain said, years ago, that the truth was such an important item, it should be used very sparingly.

The truth is that we made a mistake. Why is it important? It is a matter of honor. I am trying my dead level best to correct the mistake. It was on our watch last December. I was the ranking member, and the facts should be stated and the truth given accurately.

The Senator from Wisconsin said when it was voted for, the provision was in it—absolutely false. The language "express company" was in the Interstate Commerce Act when we voted for the termination act, and thereafter, the staff was writing it up and those kinds of things, they thought the term "express company" was not necessary and deleted that phrase. So it was a drafting error made.

So, when they say it was dropped out and that this amendment is part of a broader agenda, this Senator says: part of the contract with America? Come on. Everybody back home would break out laughing if they heard. I have been talking against that contract for 4 years now. I did not think much of it as politics. It was all applesauce: Get rid of the Department of Education, the Department of Commerce, get rid of the Department of Energy, repeal—get rid of public television, get rid of the Park Service—just get rid of it all? Come on. This is not any part of the contract. It is part of my particular watch, and I am going to get it corrected. Do not give me this stuff about procedure now.

They said, back in my law school days, if you have the law you argue the law as strongly as you can. If you have the facts with you, you argue the facts. And if you do not have the facts or the law, you beat on the desk, and yell about procedure. And that is what we are listening to. "It was in the House bill, it was not in the Senate bill"—heavens above, we passed an omnibus appropriations and continuing resolution earlier this week with hardly a dissenting vote. I would think one-third of it was not in there before or

had ever been seen or whatever else. I know the new things that were put in, we were glad to get them in. That is the nature of the process. Any of that, "sneaking around, pulling the rug out, sticking it to them, blackmail"—that is tommyrot and they know it. They are the ones trying to pull the rug out because they continually falsely report the situation.

I read again the statement of the Senator from Massachusetts, talking about that Philadelphia case: "Federal Express challenged the petition, arguing the entire company, including its truck drivers, is covered by the Railway Labor Act and not the Labor Relations Act, and therefore the bargaining unit for its truck drivers must be nationwide. The board has not yet decided the issue."

Absolutely false. The board decided the issue on November 22 of last year. In Re: Federal Express, 23 NMB, No. 13. And I quote what they decided unanimously:

The board is of the opinion that Federal Express Corporation and all its employees sought by the UAW's petition are subject to the Railway Labor Act.

But the Senator from Massachusetts says—"a man convinced against his will is of the same opinion still"—and I quote yesterday again, "The Senator from South Carolina still cannot show where Federal Express is an express company under the Railway Labor Act."

I just did. That is one of the most recent decisions. I laid it in the RECORD and enumerated some 31 decisions. Maybe we ought to ask it in reverse. Find me a single decision since 1973, when Federal Express went in business, in which it was not held to be an express company under the RLA. It has always been held that it is under the Railway Labor Act.

Mr. President, let me move on. Right here they say you are not playing fair, that they are playing by the rules of the game. We are trying a new case here that we have not had a hearing on or anything, they say—it makes me go to the RECORD.

They say the United Parcel Service has so many planes and trucks, Federal Express has so many planes and trucks, United Parcel Service plays by the rules and Federal Express ought to play by the rules.

Oh, boy, that has been raised by the best of the best lawyers. There is not any question that the Teamsters and the United Auto Workers both have the best of the best lawyers.

In the Board case: United Parcel Service, Timothy J. Gallagher and the International Brotherhood of Teamsters, National Committee intervenor, decision and order of August 25 of last year by Chairman Gould and members Stephens, Browning, Cohen and Truesdale, and I quote:

Approximately 92 percent of the packages picked up, processed and delivered by the respondent travel exclusively by ground.

Ninety-two percent; 85 percent of Federal Express travels by air, and that case, interestingly, appeared in an argument made by the teamster attorney on May 9, 1996, in the United States Circuit Court of Appeals for the District of Columbia Circuit. United Parcel Service petition, National Labor Relations Board. Mr. Muldolf, the lawyer, was answering a question.

Mr. Muldolf: Well, the case now pending before the NLRB is a FedEx case which has been referred back. There has not been a decision there, but if you take the NLRB's decision in UPS and you take the NMB's advisory opinion in Federal Express, you see—and I can't tell you what the NLRB is going to do—these companies are like night and day. Ninety-two percent on the ground, 15 percent on the ground—

That is the language of their own lawyer. But you get the politician lawyers who appear on the floor of the Senate and they want to try a different case. I don't know if they have ever been in the courtroom before. This Senator has made a living at it. We are not going to let them get by with this bum's rush, because exactly what they accuse me of—inserting this language, of pulling the rug and sticking it to them—is exactly what they are trying. They know when they say "litigation pending" that there is none. The NLRB has been sitting on the finding of the National Mediation Board since last November. I have searched the record, and in the last 50 years of 100 cases where the National Mediation Board has given its opinion, the NLRB has yet to reverse it.

So they know it is a given. If they tried to rule otherwise, it would be appealed and reversed right away. So there is nothing pending. But what they are trying to do is come in after the rules of the game, after November 22, after the full hearing over a 5-year period. It wasn't started until the end of 1990, the first part of 1991. After 5 years and with all the lawyers, they were unanimously ruled against, and they try now to change the rule by saying, "Oh, they made that error. We can get this organized, and we can get the votes, we can control it."

They have been blocking correcting this mistake every way they can. Yes, they blocked it in the Appropriations Committee because I wasn't prepared. I thought an honest error would be respected by Senators as gentlemen. I went in, explained exactly what happened. We called the roll, and it was 10 to 10. I hadn't even bothered to get the proxies. However, later on, we did include it in the conference report. It has been debated, affirmed in the House by a rollcall vote. We are ready to vote now, and they are claiming we are filibustering.

It reminds me, I say to the Senator, of a young lad who went to the psychiatrist, and she drew a line on the board and said, "What do you think of?"

The young lad said, "Sex."

She drew some crosses.

He said, "Sex."

She drew circles.

He said, "Sex."

She said, "Young man, you're the most oversexed, depraved person I've ever seen."

"Doctor, me depraved?" he said. "You're the one drawing the dirty pictures."

Come on. Are we doing the filibustering? We are ready to vote, have been ready to vote. They are the ones who moved to postpone. I haven't heard that motion in the 30 years I have been here; never heard it. But I heard it from the Senator from Massachusetts for the first time. Then they wanted to read the bill. And they say we are the ones filibustering?

Why is it important? Because the truth is important. It was not part of the bill when it left the Senate. It was not a part of the bill when it left the House. We know it wasn't in there. Look at what we voted on on Monday. I can give you ad nauseam a list of things that were never in the House, never in the Senate that appeared there.

They say this is "one more blow to the working people." It is not any blow to the working people. I am not engaged in that kind of work. I am not forestalling the entire Congress for a broader agenda. I could comment further but in the interest of time let me go down to a couple of other things.

The intent. Oh, yes, the Congressional Research Service. The comment was made he was demeaned, the lawyer. If I could get him, I would wring his neck. I couldn't demean him enough. Why? Because he was asked about this provision and said it was put in intentionally, when he knows otherwise. He failed and refused to quote the intent of the Congress.

This is in the conference report, Mr. SHUSTER, of the committee of conference, submitted the following report:

The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.

With the deleted language, that is the ambiguity we are trying to clarify. But when you look for intent, and we told them about it, the CRS letter continually disregards the intent with this letter to the Members. I can't get to all the Members and explain this. They have labor reps running all around. They say, "Stay home, they have to get the 60 votes."

It is so hard, as Twain says, to use the truth. It's so hard to develop it around this particular issue.

There has been an onslaught, Mr. President, against the company. I saw a part of the distinguished Senator from Massachusetts' press conference on TV. By the time I saw it, it was cut,

but it was partially on C-SPAN that "it was a horrible company; they hadn't given a pay raise in 7 years," the FedEx employee was saying. I called, and we will get it in the RECORD. They have had, I was told, over the last 8 years, each year an average of 6.5 percent, for a total of a 50 percent wage increase. I said that very carefully because that is exactly what I was told, and I am going to get a copy of it.

Mr. President, we have in this book: "The 100 Best Companies to Work for in America" with special recognition in the following categories: One of the best 10 overall companies; one of the 10 best for job security; one of the 10 best for women; one of the 10 best for minorities; one of the 12 best with significant employee ownership; one of the 10 best training programs. We have the Minority Business Council; the Hispanic Council; the Good Housekeeping magazine's 69 top companies for working mothers, and on and on and on.

This book—we wouldn't want to put the book in the RECORD —is "The 100 Best Companies to Work for in America," by Robert Levering and Milton Moskowitz.

But when you get an outstanding company, and they are playing by the rules, and you get the bum's rush as a result of a drafting error, after the conference, that we have been trying to correct, and then they give you all this procedure and everything else like we are doing the sneaking—we have done nothing here in this particular provision in the FAA Reauthorization Act but put the parties back exactly where they were, which was the intent. None of the rights or responsibilities were either contracted or expanded for employees or employers.

We have not had hearings. When they talk about hearings, there was not any hearing when this was deleted, there was not any statement made. I cannot find—I said, "Where is the Senator, where is the Congressman who said, 'I wanted this. I put it in. I discussed it. I talked about it.'?" They cannot find one of 535; yet we get accused of blackmail.

I never heard of such outrageous fraud going on here trying to change the entire picture of what really is the case with respect to this particular matter.

Mr. President, one more time I ask unanimous consent to have printed in the RECORD excerpts of the National Mediation Board's opinion in re Federal Express case No. 4–RC–17698.

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

NATIONAL MEDIATION BOARD,
Washington, DC, November 22, 1995.

Re NMB File No. CJ–6463 (NLRB Case 4–RC–17698) Federal Express Corp.

JEFFREY D. WEDEKIND,
Acting Solicitor, National Labor Relations Board, Washington, DC.

DEAR MR. WEDEKIND: This responds to your request dated July 17, 1995, for the National Mediation Board's (Board's) opinion as to whether Federal Express Corporation (Federal Express or FedEx) and certain of its employees is subject to the Railway Labor Act, as amended, 45 U.S.C. §151, *et. seq.* The Board's opinion, based upon the materials provided by your office and the Board's investigation is that Federal Express and all of its employees are subject to the Railway Labor Act.

I.

This case arose as the result of a representation petition filed with the National Labor Relations Board (NLRB) by the International Union, United Automobile Aerospace and Agricultural Implement Workers of America (UAW). The UAW initially sought to represent a unit of Federal Express's employees including "all regular full and part-time hourly ground service employees in the Liberty District."[1] On December 9, 1991, the UAW amended its petition to exclude "ramp agents, ramp agent/feeders, handlers, senior handlers, heavyweight handlers, senior heavy weight handlers, checker sorters, senior checker/sorters, shuttle drivers, shuttle driver/handlers, office clerical employees, engineers, guards and supervisors as defined in the Act [NLRA]." The titles remaining in the UAW's petition include: service agents, senior service agents, international document agents, couriers, courier/handlers, tractor-trailer drivers, dispatchers,[2] courier/non-drivers and operations agents.

The UAW argues that the employees it seeks to represent in Federal Express Liberty District are employees subject to the National Labor Relations Act (NLRA). The UAW acknowledges that pilots and aircraft mechanics employed by Federal Express are subject to the Railway Labor Act. However, the UAW contends that the two-part test traditionally employed by the Board to determine whether an entity is a carrier should be applied to the unit of employees it seeks to represent in Federal Express' Liberty District. According to the UAW, the employees it seeks to represent in the Liberty District do not perform airline work and are not "integral to Federal Express' air transportation functions."

Federal Express asserts that it is a carrier subject to the Railway Labor Act and, as a carrier, all of its employees are subject to the Railway Labor Act. Federal Express notes that the Board and the courts have repeatedly found it to be a carrier subject to the Railway Labor Act. According to Federal Express, the job classifications remaining in the petition are integrally related to Federal Express' air transportation activities. Federal Express contends that it is a "unified operation with fully integrated air and ground services." According to Federal Express, allowing some employees to be covered by the National Labor Relations Act and others to be subject to the Railway Labor Act would result in employees being covered by different labor relations statutes as they are promoted up the career ladder.

Federal Express contends that the two-part test suggested by the UAW is not appropriate in this case. According to Federal Express, the Board uses the two-part test to determine whether a company is a carrier, not to determine whether specific employees of a carrier perform duties that are covered by the Railway Labor Act. Federal Express cautions that adoption of the test suggested by the UAW "would drastically alter labor relations at every airline in the country." According to Federal Express, under the UAW's test, most categories of employees except pilots, flight attendants and aircraft mechanics would be subject to the NLRA.

The Board repeatedly has exercised jurisdiction over Federal Express. *Federal Express Corp.*, 22 NMB 279 (1995); *Federal Express Corp.*, 22 NMB 257 (1995); *Federal Express Corp.*, 22 NMB 215 (1995); *Federal Express Corp.*, 20 NMB 404 (1993); *Federal Express Corp.*, 20 NMB 394 (1993); *Federal Express Corp.*, 20 NMB 360 (1993); *Federal Express Corp.*, 20 NMB 126 (1993); *Federal Express Corp.*, 20 NMB 91 (1992); *Federal Express Corp.*, 20 NMB 7 (1992); *Federal Express Corp.*, 19 NMB 297 (1992); *Federal Express Corp.*, 17 NMB 24 (1989); *Federal Express/Flying Tiger*, 16 NMB 433 (1989); *Federal Express*, 6 NMB 442 (1978). There is no dispute that Federal Express is a carrier subject to the Railway Labor Act with respect to certain Federal Express employees (i.e. Pilots; Flight Attendants,[3] Global Operations Control Specialists; and Mechanics and Related Employees; Stock Clerks; and Fleet Service Employees). However, the Board has not addressed the issue raised by the UAW: whether or not certain Federal Express employees are subject to the Railway Labor Act.

The NLRB initially requested the NNB's opinion as to whether FedEx is subject to the RLA on July 1, 1992. However, on that date, the NLRB granted the UAW's request to reopen the record and the file was returned to the NLRB. The NLRB renewed its request on July 17, 1995 and the NMB received the record on July 31, 1995. The NMB received additional evidence and argument from FedEx and the UAW on August 17, 1995 and September 5, 1995.

II.

Federal Express, a Delaware corporation, is an air express delivery service which provides worldwide express package delivery. According to Chairman of the Board and Chief Executive Officer Frederick Smith, Federal Express flies the sixth largest jet aircraft fleet in the world.

Federal Express' jet aircraft fleet, currently includes Boeing 727–100's, Boeing 727–200's, Boeing 737's, Boeing 747–100's, Boeing 747–200's, DC 10–10's, DC–10–30's and McDonnell-Douglas MD–11's. Federal Express also operates approximately 250 feeder aircraft, including Cessna 208's and Fokker 27's. It has over 50 jet aircraft on order.

Federal Express currently serves the United States and several countries in the Middle East, Europe, South America and Asia, including Japan, Saudi Arabia and Russia. According to Managing Director of Operations Research Joseph Hinson, Federal Express does not transport freight that moves exclusively by ground to or from the United States.

* * * * *

III. DISCUSSION

The National Mediation Board has exercised jurisdiction over Federal Express as a common carrier by air in numerous published determinations. *Federal Express Corp.*, 22 NMB 279 (1995); *Federal Express Corp.*, 22 NMB 257 (1995); *Federal Express Corp.*, 22 NMB 215 (1995); *Federal Express Corp.*, 20 NMB 666 (1993); *Federal Express Corp.*, 20 NMB 404 (1993); *Federal Express Corp.*, 20 NMB 394 (1989); *Federal Express Corp.*, 20 NMB 360 (1993); *Federal Express Corp.*, 20 NMB 126 (1993); *Federal Express Corp.*, 20 NMB 91 (1992);

Footnotes at end of article.

Federal Express Corp., 20 NMB 7 (1992); *Federal Express Corp.*, 19 NMB 297 (1992); *Federal Express Corp.*, 17 NMB 24 (1989); *Federal Express/Flying Tiger*, 16 NMB 433 (1989); *Federal Express*, 6 NMB 442 (1978). In eight of those determinations, the Board exercised jurisdiction over ground service employees of Federal Express. The substantial record developed in this proceeding provides no clear and convincing evidence to support a different result.

A.

Section 181, which extended the Railway Labor Act's coverage to air carriers, provides:

"All of the provisions of subchapter 1 of this chapter except section 153 of this title are extended to and shall cover every common carrier by air engaged in interstate or foreign commerce, and every carrier by air transporting mail for or under contract with the United States Government, and *every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service.*" 45 U.S.C. §181. (Emphasis added).

Federal Express is an air express delivery service which holds itself out for hire to transport packages, both domestically and internationally. Federal Express and the UAW agree that Federal Express and its air operations employees, such as pilots and aircraft mechanics, are subject to the Railway Labor Act. The disagreement arises over whether Federal Express' remaining employees are subject to the Railway Labor Act. The UAW argues that the employees it seeks to represent do not perform airline work and are not "integral to Federal Express' air transportation functions." Federal Express asserts that all of the employees sought by the UAW are integrally related to its air express delivery service and are subject to the Railway Labor Act.

Since there is no dispute over whether Federal Express is a common carrier by air, the Board focuses on whether the employees sought by the UAW's petition before the NLRB are subject to the Railway Labor Act. The Act's definition of an employee of an air carrier includes, "every air pilot or other person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service". The Railway Labor Act does not limit its coverage to air carrier employees who fly or maintain aircraft. Rather, its coverage extends to virtually all employees engaged in performing a service for the carrier so that the carrier may transport passengers or freight.[4]

In *REA Express, Inc.*, 4 NMB 253, 269 (1965), the Board found "over-the-road" drivers employed by REA subject to the Act stating:

"It has been the Board's consistent position that the fact of employment by a "carrier" under the Act is determinative of the status of *all* that carrier's employees as subject to the Act. The effort to carve out or to separate the so-called over-the-road drivers would be contrary to and do violence to a long line of decisions by this Board which would embrace the policy of refraining from setting up a multiplicity of crafts or classes. As stated above, there is no question that this particular group are *employees* of the carrier." (Emphasis in original).

The limit on Section 181's coverage is that the carrier must have "continuing authority to supervise and direct the manner of rendition of . . . [an employee's] service. The couriers, tractor-trailer drivers, operations agents and other employees sought by the UAW are employed by Federal Express directly. As the record amply demonstrates, these employees, as part of Federal Express' air express delivery system, are supervised by Federal Express employees. The Board need not look further to find that all of Federal Express' employees are subject to the Railway Labor Act.

B.

In the Board's judgment, the analysis of the jurisdictional question could end here. However, Federal Express and the UAW have directed substantial portions of their arguments the "integrally related" test. Specifically, the participants discuss whether the employees the UAW seeks to represent are "integrally related" to Federal Express' air carrier functions. The Board does not find consideration of the "integrally related" test necessary to resolve the jurisdictional issue, however, review of the relevance of this test is appropriate.

The UAW argues that the employees it seeks to represent are not integrally related to Federal Express' air carrier functions and therefore are not subject to the Railway Labor Act. Federal Express asserts that the NLRB and federal courts have found its trucking operations integrally related to its air operations.[5]

However, the Board does not apply the "integrally related" test to the Federal Express employees sought by the UAW. Where, as here, the company at issue is a common carrier by air, the Act's jurisdiction does not depend upon whether there is an integral relationship between its air carrier activities and the functions performed by the carrier's employees in question. The Board need not consider the relationship between the work performed by employees of a common carrier and the air carrier's mission, because section 181 encompasses "every pilot or other person who performs *any* work as an employee or subordinate official of such carrier or carriers. . . ." (Emphasis added).

Even if the Board were to assume *arguendo* that the "integrally related" test applies to the facts in this case, the Board would hold in concurrence with the recent decision in *Federal Express Corp.* v. *California PUC, supra*, at note 10, that the "trucking operations of Federal Express are integral to its operations as an air carrier." 936 F.2d at 1078. Employees working in the other positions sought by the UAW perform functions equally crucial to Federal Express' mission as an integrated air express delivery service. As the record demonstrates, without the functions performed by the employees at issue, Federal Express could not provide the on-time express delivery required of an air express delivery service.

The Board has employed the "integrally related" test when it has examined whether to apply the trucking exemption under §151 of the Act. *O/O Truck Sales*, 21 NMB at 269; *Florida Express Carrier, Inc.*, 16 NMB 407 (1989). Specifically, the Board has applied the "integrally related" test when it has considered trucking operations conducted by a subsidiary of a carrier or a company in the same corporate family with a carrier. In *Florida Express, supra*, the Board found Florida Express, a trucking company which is a wholly-owned subsidiary of Florida East Coast Railroad, to be a carrier subject to the Railway Labor Act. In *O/O Truck Sales, supra*, the Board found O/O Truck Sales, a trucking and fueling company which is a wholly-owned subsidiary of CSXI (which is commonly owned with CSXT), to be a carrier subject to the Railway Labor Act. In contrast, Federal Express directly employs truck drivers, couriers and all other employees sought by the UAW's petition.

C.

The UAW argues that the Board should apply the two-part test used by the Board in other factual settings for determining whether an employer and its employees are subject to the Railway Labor Act. See, for example, *Miami Aircraft Support*, 21 NMB 78 (1993); *AMR Services Corp.*, 18 NMB 348 (1991). The Board does not apply the two-part test where the company at issue is engaged in common carriage by air or rail. The Board applies the two-part test where the company in question is a separate corporate entity such as a subsidiary or a derivative carrier which provides a service for another carrier. In those situations where the Board applies the two-part test, it determines: 1) whether the company at issue is directly or indirectly owned or controlled by a common carrier or carriers; and 2) whether the functions it performs are traditionally performed by employees of air or rail carriers. Under this test, both elements must be satisfied for a company to be subject to the Railway Labor Act. Federal Express is an admitted carrier and the employees at issue are employed directly by Federal Express. Accordingly, the two-part test does not apply to this proceeding.

Even if the two-part test were applicable, the employees at issue here would be covered by the Railway Labor Act. Federal Express, as a common carrier, has direct control over the positions sought by the UAW. In addition, the Board has found that virtually all of the work performed by employees sought by the UAW's petition is work traditionally performed by employees in the airline industry. For example: couriers, *Air Cargo Transport, Inc.*, 15 NMB 202 (1988); *Crew Transit, Inc.*, 10 NMB 64 (1982); truck drivers; *Florida Express, Inc.*, 16 NMB 407 (1989); customer service agents; *Trans World International Airlines, Inc.*, 6 NMB 703 (1979).

CONCLUSION

Based upon the entire record in this case and for all of the reasons stated above, the Board is of the opinion that Federal Express Corporation and all of its employees sought by the UAW's petition are subject to the Railway Labor Act. This finding may be cited as *Federal Express Corporation*, 23 NMB 32 (1995). The documents forwarded with your letter will be returned separately.

By direction of the National Mediation Board.

STEPHEN E. CRABLE,
Chief of Staff.

FOOTNOTES

[1]The Liberty District includes portions of southeastern Pennsylvania, southern New Jersey and Delaware.

[2]The dispatchers at issue do not dispatch aircraft.

[3]FedEx no longer employs Flight Attendants.

[4]Two courts have held that certain employees of a carrier who perform work unrelated to the airline industry are not covered by the Railway Labor Act. *Pan American World Airways v. Carpenters*, 324 F.2d 2487, 2488, 54 LRRM 2487, 2488 (9th Cir. 1963); *cert. denied*, 376 U.S. 964 (1964) (RLA does not apply to Pan Am's "housekeeping" services at the Atomic Energy Commission's Nuclear Research Development Station); and *Jackson v. Northwest Airlines, Inc.*, 185 F.2d 74, 77 (8th Cir. 1950) (RLA does not apply to Northwest's "modification center" where U.S. Army aircraft were reconfigured for military purposes). Work functions described in *Carpenters* as "substantially identical" to those before the Ninth Circuit were held by another court to be within the "compulsive" jurisdiction of the Railway Labor Act. *Biswanger v. Boyd*, 40 LRRM 2267 (D.D.C. 1957). The Board has not

had the occasion to make a final determination regarding the appropriate application of this line of cases.

[5] *Federal Express Corporation v. California Public Utilities Commission*, 936 F.2d 1075, 1078 (9th Cir. 1991). *Chicago Truck Drivers v. NLRB*, 99 LRRM 2967 (N.D. Ill. 1978); aff'd 599 F.2d 816, 101 LRRM 2624 (7th Cir. 1979).

Mr. HOLLINGS. This goes into every detail that was raised. Because when you finally corner them one place, they squirt out like quicksilver in the palm of your hand, talking about integrally related tests and so forth. All of that was considered in this particular decision. TRENT LOTT, NEWT GINGRICH, a letter to the majority leader and the Speaker, where we had to hear from certain Members on yesterday's debate, signed by BUD SHUSTER, chairman; SUSAN MOLINARI; chairman of the Railroad Subcommittee. And it is not you, HOLLINGS, saying it was a mistake. Anybody intimately connected will not say otherwise, and has not said otherwise.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 12, 1996.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, The Capitol, Washington, DC.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, The Capitol, Washington, DC.

DEAR MR. MAJORITY LEADER AND MR. SPEAKER: We are writing to you to set out the facts regarding a technical error in the ICC Termination Act of 1995, Public Law 104–88. The mistake concerns the context in which the ICC Termination Act addressed the relationship between the economic regulation of transportation under Subtitle IV of Title 49, United States Code, and the Railway Labor Act (45 U.S.C. 151 et. seq.).

The ICC Termination Act abolished the former Interstate Commerce Commission, reduced economic regulation substantially in both rail and motor carrier transportation, and transferred the reduced but retained regulatory functions to a new Surface Transportation Board, part of the Department of Transportation.

One form of ICC regulatory jurisdiction under the former Interstate Commerce Act was exercised over "express carriers"—as defined in former 49 U.S.C. 10102, a person "providing express transportation for compensation." This was part of the ICC's jurisdiction, since express service originated as an ancillary service connecting with rail freight service.

The Railway Labor Act included in Part I coverage of "any express company . . . subject to the Interstate Commerce Act." [45 U.S.C. 15].

In the ICC Termination Act, economic regulation of express carriers was eliminated from the statutes to be administered by the new Surface Transportation Board, on the ground that this form of regulation was obsolete. (Another category of ICC and Railway Labor Act "carrier"—the sleeping-car company—was similarly eliminated from STB jurisdiction.)

In light of the abolition of economic regulation, the ICC Termination Act contained a conforming amendment (Section 322, 109 Stat. 950) which also struck the term "express company" from the Railway Labor Act definition of a "carrier." Although unaware of any possible effects of this conforming change on the standards applied under the Railway Labor Act, Congress plainly delineated its intent in new Section 10501(c)(3)(B) of Title 49, U.S. Code [109 Stat. 808]: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employers and employees by the Railway Labor Act."

The apparent contradiction between the legislative intent stated in Section 10501(c)(3)(B) and the conforming Railway Labor Act in Section 322 could be interpreted to alter the legal standards by which companies are determined to be governed, or not governed, by the Railway Labor Act. Therefore, a technical correction is necessary to restore the former Railway Labor Act terminology and thus avoid any inference that is at odds with the clearly stated legislative intent not to alter coverage of companies or their employees under the Railway Labor Act.

We hope that this brief summary of the facts will provide you with information useful in your future deliberations.

Respectfully,

BUD SHUSTER,
Chairman.
SUSAN MOLINARI,
Railroad Subcommittee Chairwoman.

Mr. HOLLINGS. Mr. President, there are some other things to be touched upon as we move through this. I think one of the important things is the particular charge that they come bringing about something being unfair and not according to the rules, or whatever else.

I reiterate as positively, as affirmatively as I can, ever since 1973, when the Federal Express Co. was organized, it has been under the Railway Labor Act, the Railway Labor Act. All of its matters, I am finding out as a lawyer, are automatically referred by the NLRB to the National Mediation Board. The matter that is now being discussed, what is being "fair" and "unfair" and those kinds of things, and "Why can't we change that?" it could be if we had some hearings, if we had it brought before the Congress.

But the best of the best has just served on what we call the Dunlop Commission. When President Clinton came to town, he got the former Secretary of Labor under Gerald Ford, President Ford, and said, study and see what needs to be done under labor, the labor statutes.

None other than Doug Fraser, the former president of the United Auto Workers, served on that commission. And that commission determined that the Railway Labor Act should not be modified.

We can be ready to argue that and go in length on it. But I think when you find the UAW lawyer, and they know about this decision of the Mediation Board that I already put in the record, when you find a Teamster lawyer, in his arguments before the circuit court, when you find the Dunlop Commission—if we had just started this thing, we would have weighted support by all the particular studies and lawyers who have been in the particular field.

But like the sheep dog that had tasted blood, when they saw this particular mistake, they went to gobble up the entire flock. They said, "We can do it. All we need to do is have everyone anxious to go home, and we'll just show them, and we'll move to postpone. We'll say, 'Read the conference report. Read it.'" And then after reading it for 2 days—the distinguished Senator said he did not know why we were here for 2 days. The 2 days is so the union crowd can work around the clock.

I cannot do any work when I am on the floor trying to defend the truth. Yet we are getting blamed for blackmail and that kind of thing. I think it is totally out of character with the service here in this particular body. I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry. How much time remains on this side?

The PRESIDING OFFICER. The Senator from New Mexico controls 56 minutes 20 seconds. On the other side, it is 37 minutes 54 seconds.

Mr. KENNEDY. Mr. President, are you suggesting we have only 36 minutes on our side? We had one speaker, Senator FEINGOLD. He was our only speaker.

Mr. HOLLINGS. I just got through speaking.

Mr. KENNEDY. Whose time?

Mr. HOLLINGS. Our time on this side.

Mr. KENNEDY. With all respect, I did not yield any time to the—I thought the Senator was opposed to the position. The way it was divided up, we are entitled to at least have time for the Senators in opposition, the position of the Senator from Massachusetts and the others. I did not understand the time agreement was to be between—I am always glad to accommodate, but I mean we have had one speaker against it. Now it is 20 until 4. We have been here since 2 o'clock. We have had 15 minutes on one position.

I ask, how was the time allocated?

The PRESIDING OFFICER. The time was under the control of the respective leaders. Therefore, the time on the part of the Democratic Senators is charged to the Democratic leader, and the time on the part of the Republican Senators charged to the Republican leader.

Mr. KENNEDY. Well, Mr. President, that is a surprise to me. Was that the way it was done yesterday, Mr. President?

As I understand, I had the control of the time yesterday.

The PRESIDING OFFICER. The Senator from Massachusetts is correct,

that was the procedure yesterday. There is a different time agreement in place today.

Mr. KENNEDY. Well, parliamentary inquiry. When was that time agreement entered into?

The PRESIDING OFFICER. The Chair is incorrect. It is the same agreement.

Mr. KENNEDY. Well then, could I ask the Chair then to correct the time allocation?

Mr. STEVENS. Mr. President, there is no correction due. This time was divided across the aisle, an even amount of time for the Democrats and an even amount for Republicans. After all, we do have more Senators on this side of the aisle than that side of the aisle, and yet we split the time evenly. Three hours each day is to be split evenly between the two sides.

Mr. KENNEDY. Or their designees, as it was yesterday, Mr. President. I was here all day yesterday.

We talk about a "jamming." We were here yesterday, and we had it divided up evenly between those for it and against it. We have had one speaker who has spoken for 14 or 15 minutes against this provision, and now we are told we have 38 minutes left. That is not the—that is very, very clear. That certainly supports what we have been saying about this particular provision, Mr. President. We did not divide the time yesterday that way. It is unacceptable to say you are to change the rules of the game overnight without anything to demonstrate it.

The PRESIDING OFFICER. The Chair was mistaken in suggesting there was a change in the time agreement. The Chair is advised by the Parliamentarian that the agreement has been followed in this pattern ever since it was entered into.

Mr. STEVENS. Mr. President, I ask the Senator from Massachusetts to look at the order. It is ordered that at 2 p.m., Wednesday, October 2, there is to be 3 hours for debate only, to be equally divided between the two leaders. That is what we are doing.

If the Senator seeks any more time, I am prepared to stay here as long as he wants to have more time.

Mr. KENNEDY. I have every intention to have time to do that, Mr. President.

Mr. STEVENS. This time is to be equally divided between the two leaders.

Mr. KENNEDY. It was my understanding——

Mr. STEVENS. Mr. President, 46 Senators over there have an hour and a half, and 53 Senators over here have an hour and a half. I do not see anything unfair.

Mr. KENNEDY. I will take what time I shall need at the appropriate time, Mr. President. This is the first time that I can remember in the time I have been in the Senate when there has been a division on an issue with those Members that are for a proposal and those that are against, and when there is a time agreement to divide the time equally, and then have it interpreted the way it has been interpreted—this is the first time in my recollection this has happened.

I made it clear, both to our leader, and he indicated to the majority leader as well, as to what we were asking for, and that is to have an hour and a half on each side to make the presentation evenly divided. This is a convoluted interpretation of that understanding.

I will take such time as I might need later on.

Mr. STEVENS. Mr. President, I yield such time as the Senator from New Mexico desires.

The order is specific, to be equally divided between the two leaders. The Senator from Massachusetts has been assuming he has been designated by the leader that he is to assume the time. I have not been advised.

Mr. DOMENICI. How much time, Senator MURRAY, did you want?

Mrs. MURRAY. Less than 10 minutes.

Mr. DOMENICI. She has been waiting longer. I will yield if they take it out of their time, and then ask that the Senator from New Mexico be recognized after Senator MURRAY completes her remarks.

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

The Senator from New Mexico will be recognized at the conclusion of the remarks of the Senator from Washington. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I rise today as a strong proponent of the bill before us H.R. 3539, the Federal Aviation Administration reauthorization bill. This legislation does provide critical aviation safety and reform efforts and it is the principle authority for aviation infrastructure investments.

The importance of this bill only underscores the time and serious attention, Members in this Chamber have given to the legislation's express carrier provision. I have listened closely over the last few days to colleagues whom I deeply respect, on both sides of this issue and both sides of the aisle.

As much as I want to see the FAA bill pass, I believe we must focus on the question of fairness. Did this provision, we are now debating receive enough public comment and undergo hearings necessary to adequately judge the change? Is this provision so insignificant, that it can be quickly addressed in the rush to adjourn? Are we creating a priority system that places specific companies above others?

These questions are serious and far-reaching. This provision raises too many concerns and justifies this Chamber's serious examination of the language. First, one must look at the legislative history of this rider. There has never been a hearing on this provision in a House subcommittee or full committee. Neither have there been any hearings on this provision in a Senate subcommittee or full committee.

There have been previous attempts to attach the rider to omnibus appropriations bills, the National Transportation Safety Board reauthorization and the Railroad Unemployment Act. All of these attempts to insert this controversial language have failed.

The rider was not on this bill as it passed the House and was not included in the Senate's original FAA reauthorization bill until it reached the conference committee. There are even jurisdictional questions to be answered as the House required a special rule just to consider the provision. In the end, 198 Members of Congress opposed the FAA bill with this added rider.

Second, as debate continues on this provision, it becomes clear that this is not simply a technical correction. The term "express carrier" has been obsolete for years and was purposely removed from the Railway Labor Act and the Interstate Commerce Act when Congress passed the ICC Termination Act last year. Express carrier was removed, simply because no express carrier existed since the mid-1970's.

Congress is charged with promoting an equal playing field for all. Unfortunately, what appeared to be an innocuous correction has become a dangerous reclassification. We must ensure that employees of one company have the same opportunities as those employees in other similar organizations.

Many will try to boil this issue down into another labor battle. I prefer to look at the provision as one that denies a specific group of employees, basic rights in the workplace. These opportunities are already granted to these employees' colleagues.

All of us are ready for adjournment. Many have felt that they've become hostage to an insignificant technical correction with little impact. Our 4 days of debate will one day, however, appear insignificant. Especially in contrast to the thousands of workers who will forever be held hostage by this language.

Mr. President, let's act reasonably. Let's act rationally and by all means let's adjourn. But let's leave this session with a clear conscience and a bill we can all live with, confident that we did not act in haste or shortsightedness.

In the interest of good Government and good public policy, let's remove the provision and re-examine it through the normal legislative process. In the interest of good Government and good public policy, lets pass the FAA bill without this express provision. This legislation is strong enough on its own merits. I am certain the House will recognize its responsibility to come back and finish a job, so critical to America's workers.

The PRESIDING OFFICER. Under the previous order the Senator from New Mexico is recognized.

TRIBUTE TO RETIRING SENATORS

SENATOR BENNETT JOHNSTON

Mr. DOMENICI. I have not had occasion to speak on the floor with reference to some of my close friends, retiring Senators, other than some remarks I made with reference to BENNETT JOHNSTON. We came to the Senate together, and I addressed my thoughts on BENNETT JOHNSTON. He is my ranking member and I have been his.

Now I will take a few minutes to talk about a number of Members. I do not know that I will be able to comment on all my fellow colleagues that are leaving, but I will briefly state my remarks, and I hope brevity is not taken by any of the departing Senators as an indication of my heartfelt feelings. In a few minutes I will cover a lot of them with some observation that I remember most specifically about each Senator.

SENATOR PAUL SIMON

I start with a Democrat Senator, Senator PAUL SIMON from the State of Illinois. I perceive, as I look at Senator SIMON, that he was a quiet man, who acquired a great deal of respect in this Chamber and became very effective because he has been very forthright in the manner that he does business and carries out his initiatives and efforts.

He has always put all his cards on the table, even in cases where not all the cards were on his side. I think his reputation for integrity and honesty, along with his articulate manner of presenting things in a low-key manner, have gained him a significant reward in this institution by way of his accomplishments. We will miss him.

Obviously, he has done work in mental illness parity, the Genetic Privacy Act, the balanced budget amendment for which he will be known, line-item veto, some work on homelessness, problems of violence on television, and the programming that he has deemed indecent and not worthy of presentation. I commend him for his time in the Senate and wish him and his wonderful wife the very best.

SENATOR HANK BROWN

Second, I take a few moments to talk about Senator BROWN from the State of Colorado. I wanted to say right up front, I have been in this Chamber now for 24 years, 4 terms. I have not seen a Senator make as much of an impact in 6 short years as has the distinguished Senator, Senator BROWN, from the State of Colorado. He is a man with great talent, a marvelous wit, and a great knack for making the complicated simple. He has helped us present very complex issues in ways that the American people understand, and he has done that wherever he chose in whatever committee work or here on the Senate floor.

No one was more effective in defeating the 19 billion dollars' worth of so-called stimulus package proposed by President Clinton which would have been $19 billion more added to the deficit. Senator BROWN provided clear, powerful examples and straightforward and practical reasons as to why we should not do that. His ideas were contagious, and I believe among the many things he can take credit for, it is this example of clarity that he gave to all of us which permitted an issue that clearly, clearly, should not have gone the way the President asked. Because of him, it did not.

SENATOR JIM EXON

Let me take just a moment to talk about another Senator. First of all, I wish I had more time to talk about my cohort on the Budget Committee, Senator EXON, of the State of Nebraska. But as I indicated, I do not have enough time to say all that I would like, and I don't believe I will find enough time; but here are the three things I recall most vividly about the Senator. First and foremost—and only people who work with the budget will appreciate this—I think Senator EXON should be commended because, as he took over the Budget Committee, he was fully aware that you can't do that work without the very best staff. He retained and added to the fine staff, and, as a consequence, the work and combat of budgeting was done in a professional manner, in a manner clearly calculated to present the facts and the truth.

Obviously, he has been a leader in budget matters, a strong Senator in favor of fiscal control. While we may differ, there is no question that in my chairmanship and his ranking membership of that committee, we clearly set the tone for the country that a balanced budget was absolutely necessary for the future of our children and our country. He has gained expertise, obviously, in some special areas of armed services, for which I commend him. Those who are in agriculture and farming in his State know how hard he worked to maintain the right things, as he saw them, for that part of America's marketplace mix. Much of that was directed at his State, but it helped many farmers everywhere.

SENATOR HOWELL HEFLIN

Mr. President, I have just a few remarks about the distinguished Senator, Senator HEFLIN. I think we all know this Senator came here as a renowned judicial reformist from his State, where he presided in a masterful way over reorganizing the judicial system and putting honesty and integrity back front and center in that system in Alabama. He brought to us his very sharp mind on legal matters, and he has been consistently well-prepared on a wide diversity of issues, for which he will be remembered as much for the clarity of purpose and the clarity of expression as for the issues themselves.

He also deserves our accolades, because anybody who chairs the Ethics Committee of the U.S. Senate for any sustained period of time deserves our highest esteem. Not only did he do that, but he did it during the most difficult of modern times in terms of that Ethics Committee. I believe the matters before him took a long time because of their complexity and personal nature, but things came out fairly well. I believe he is entitled to a great deal of respect for that.

SENATOR DAVID PRYOR

Mr. President, I want to say a few words about a Senator on the other side of the aisle, Senator PRYOR. Let me just say that this Senator, as I view it, has been a marvelous, quiet, strong advocate for the issues that concern him. Whether it was the Taxpayers Bill of Rights, which he proposed, or whether it was his advocacy for small business, he obviously did it with a kind of calm and calmness that many of us wish we could have every day we come to the floor of the Senate.

I also want to commend him, because it fell to him—and I assume it was with relish on his part—to be the principal defender in many instances of the current occupant of the White House, President Bill Clinton. They are from the same State. Senator PRYOR had been Governor, as had Senator BUMPERS, of that State. I think his efforts to support the President and fellow Arkansas resident was done eloquently and articulately. But I also believe that he had the ability to do that, which puts him in an extremely partisan mode, without ruffling the feathers of those of us on this side of the aisle because of the way he did it. It seems to me that he added some great character to his personality, because he did it in a way that was not intended to offend us on this side of the aisle, and he did it in great, good spirit. I commend him for that. He had a heart attack and came close to death in that episode. He brought a great deal of calmness to all of us, as he shared going through the rigors of that incident. I thank him for the personal way he has affected all of us in a positive manner.

SENATOR ALAN SIMPSON

Mr. President, I would like to say a few words about Senator SIMPSON. I don't know what we can say to label him. We all, in a very strange way, sort of smile when we think of Senator SIMPSON. I guess it is fair to say that he is our cowboy philosopher. He has educated and delighted the Members of this Chamber with his unmatched sense of humor and his sharp wit, with his fine mind and his broad knowledge.

He has helped lead the charge in so many areas that are so desperately in need of reform. While he didn't yet accomplish his goal of reforming the entitlement programs of this country, it is clear that he never backed away

from calling things exactly as he saw them, whether or not that would lead to his adulation or to, as he has indicated to many of us, clamor by many, or to being chastised by many groups because of the way he presented issues, which was in the forthright manner that he believed in.

He took a lead in such matters as immigration reform. I think it is fair to say we would not have major immigration reform signed into law by this President but for this Senator. He was courageous in that regard, and he will be very much missed.

There will be a few Senators whom I will mention before we adjourn. I will try to find time without burdening the Senate. At a time when perhaps there is nothing else to do, I will try to find another 15 or 20 minutes to comment on a few other Members. Those I have commented on and talked about will be missed. I trust that we will all get to see each other again, and frequently. But I understand that may not be the case, for as you leave the Senate, sometimes you don't see each other for years. We will miss them dearly.

I yield the floor.

FEDERAL AVIATION ADMINISTRATION REAUTHORIZATION—CONFERENCE REPORT

The Senate continued to consider the conference report.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I want to take the bulk of my time to talk about really the underlying fundamental issue, which is how we are going to treat working families, because we have heard a great deal about technical amendments, nontechnical amendments, holdings, committee reports, and all of the others. I will just reference some of those items very, very quickly and then get to what I think is really the fundamental issue. That is the issue of fairness. Are we, by the action that has been included in the legislation, really denying some fundamental justice to scores of American workers who have been playing by the rules and believe that they ought to have their rights considered and adjudicated under the National Labor Relations Act, a process and procedure which is being considered at this very time?

Mr. President, just to reiterate the points that have been made by Senator FEINGOLD, Senator MURRAY, Senator SIMON yesterday, and others, all of us are for the FAA conference report—without this particular provision. We were prepared to offer the FAA conference report without this provision as an amendment to the continuing resolution and do it within a 5- or 10-minute time limit. That would have been over and been accepted in the House of Representatives, and we would not be here this afternoon discussing this particular amendment. Or we could follow another procedure by just calling a clean bill up from the calendar this afternoon and acting on that this afternoon and doing that by voice vote, and our colleagues and friends would not have to inconvenience themselves by being here tomorrow.

There is a question then about whether the House would accept it or not. But the precedent is quite clear that the House has taken favorable action in such situations in the past and are still acting on some measures, even as we are here.

There is really very little reason to doubt that they would accept it, particularly when you look back over the debate and discussion in the House of Representatives when they were considering the FAA conference report.

So that is where we are, Mr. President, and that is why we continue to maintain that it is those who are continually committed to this provision who are the ones that are really holding up the Senate. It is not those of us who want to move along into other endeavors but feel compelled to protect the rights of working families to make this case.

Mr. President, just very briefly, the National Mediation Board has ruled 12 times since 1978 on cases involving Federal Express. There has been a discussion of that by my friends and colleagues, the Senator from South Carolina and others. These cases involve requests for union elections, unfair labor practice charges, and other labor-management issues. In one case involving the Airline Pilots Association, the court Board found that FedEx had engaged in unfair labor practices that tainted the election so badly that a new election was ordered.

In all 12 of these cases the National Mediation Board exercised its jurisdiction over Federal Express as an airline. Federal Express argued over and over to the National Mediation Board that it was an express company too. The National Mediation Board ignored this argument every single time. No court or board has ever held Federal Express is an express company under the Railway Act.

That is the statement I made yesterday. Individuals can quote various cases and draw various conclusions. But those statements remain uncontroverted.

Mr. President, just again very briefly, was this really an oversight, or was this just a technical question? If we accept the arguments that have been made by my friend and colleague from South Carolina—he interprets the cases favorably to Federal Express, and states that the National Mediation Board ruled that all of its trucking operations would be considered under the Railway Labor Act, there is no real reason why we have to even be in the situation that we are in. You can't have it both ways. You can't say they have all ruled in all of these cases to include it and, therefore, they would achieve what Federal Express wants to achieve, and that is to get all of their trucking operations under the coverage of the Railway Act so that there will not be the possibility of the workers to get together to pursue their grievances. We are not under any illusion—and nobody should be—about exactly what the issue is really all about. So if it is, as the Senator said, they should not really need this measure. But, nonetheless, they have fought tooth and nail, tooth and nail in order to get it, which basically sustains the point that I have made.

How did we come to this situation? I refer just to the ICC Termination Act of 1995. That act struck the term "express company" from the Interstate Commerce Act. In the conference report, by Senate amendment it said "Outdated references to express and sleeping car carriers, which no longer exist, would be removed." A conforming amendment struck the same term from the Railway Labor Act.

This is the conforming measure in the ICC Termination Act. You have it specifically in the legislation, and specifically in the conference report. And that conference report was signed by my friend and colleague, Senator HOLLINGS, and many others.

So it is difficult again for us to perceive that this was somehow just a hyphen that was overlooked. Those are the facts. There may be different conclusions drawn from this fact. But, nonetheless, that is so.

Mr. President, the fact remains that when we asked an independent review board to review and evaluate whether this was a technical correction, or whether it was a substantive correction, the Congressional Research Service reviewed the history, reviewed the legislative history, reviewed the various documents, and indicated that it was not. It was a substantive issue. I know the Senator from South Carolina is unwilling to accept the Congressional Research Service's independence in its review of this and its conclusion. But, nonetheless, they have found and supported the same position that I have taken. Senator FEINGOLD, Senator MURRAY, Senator SIMON, and I have not taken the position of the Senator from South Carolina. I can understand why he differs with it. But, nonetheless, the Congressional Research Service again supports our position.

If you review what the debate was over in the House of Representatives—

where the members of the House Transportation Committee and Aviation Subcommittee, Democratic members, indicate very compellingly their view—they never viewed this as a technical amendment. And, as a matter of fact, the House Parliamentarian ruled it was outside of the scope of the conference itself because it was nontechnical and required an independent vote. The House Parliamentarian is not under the purview nor under the control of the Senator from Massachusetts, nor our other colleagues. He made a judgment that it was outside of the scope of it and required the House of Representatives to vote on it. Virtually all of the Democrats voted in opposition—30 Republicans voted in opposition, and 15 Democrats voted in favor of it.

So, I took time yesterday to review the relevant statements of the members of the House Transportation and Aviation Committee that made comments on this, that are basically in support of the Congressional Research Service and others that this is not a technical correction. It is an effort by Federal Express to have this growing operation of the utilization of trucks considered under the Railway Labor Act, and thereby be able to have a competitive advantage over any of their competitors. Make no mistake about it. This provision is only for one company.

I mean the idea that we are making a technical correction out here like it was generic and it was going to apply to a whole class defies any kind of logic, or understanding, or truthfulness, as has been used here on the floor of the Senate. It only affects one company; and that is Federal Express.

So, let us try to at least not to misrepresent exactly what the significance of all of this is. The reason for that is Federal Express currently has 560 aircraft, and 37,000 vehicles, according to the fiscal year 1997 earnings statement, Federal Express makes no secret of its plans to increase its trucking-only operation.

In May 1996, a top Federal Express official told a House staffer preparing a paper on Federal Express for a graduate school course that FedEx's ultimate goal is to send 80 percent of its packages by truck. In the future, according to this Federal Express official, only overnight packages traveling more than 400 miles will be flown, and all others will travel on the road.

So this business shift is the real reason Federal Express wants "express company" reinserted in the Railway Act.

To date, Federal Express has successfully argued that the Railway Act applies because the company is an airline. But, as Federal Express looks less and less like an airline and more and more like a trucking company, its argument that the Railway Labor Act applies becomes much weaker.

That is what this is all about. Those facts have never been really disputed or argued with, and that is because this is the essence of what this whole special interest provision is all about. Federal Express wants assurance that its workers will forever be covered by the Railway Labor Act, thus requiring nationwide bargaining units and making union organizing far more difficult. If "express company" is reinserted in the Railway Labor Act, Federal Express can argue in the future that its trucking operations qualify and, therefore, block its employees' efforts to organize.

Mr. President, that, all respects to the contrary, I think is the fair representation as to the reasons that we are here and why this particular provision has been put into this legislation.

Mr. President, I have here the letter from the Executive Office of the President, the Office of Management and Budget. I will include the whole letter in the RECORD.

I ask unanimous consent that the whole letter be printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, October 2, 1996.

Hon. LARRY PRESSLER,
Chairman, Committee on Commerce, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: I am writing to express the Administration's position on the conference report to H.R. 3539, the Federal Aviation Authorization Act of 1996.

Let me begin by stating that there are many positive aspects of the conference report including many vital provisions which we strongly support. The bill authorizes Federal Aviation Administration's (FAA) programs, including the Airport Improvement Program, which enables the award of critical safety, security, and capacity expansion grants to airports throughout the country. H.R. 3539 also includes several important aviation safety and security initiatives, including many recommended by the Vice President's Commission on Aviation Safety and Security. In addition, the bill provides for many important reforms to the FAA that will enhance air travel safety

Unfortunately, the conferees to this bill also added a new controversial provision which would reinstate coverage of "express companies" under the Railway Labor Act. The provision appeared in neither bill and was agreed to without hearing or public debate. Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination At (P.L. 104–88) believing that the last express company went out of existence years ago.

The Administration believes that the provision is not a "technical amendment" to transportation labor law. In fact, it could result in a significant shift of the relationship between certain workers and management. We hope Congress will not jeopardize aviation safety, security, and investment initiatives as it comes to closure on this issue.

Accordingly, the Administration opposes inclusion of this extraneous "express company" language in H.R. 3539, and urges the Senate to complete action on this important authorization bill.

Sincerely,

FRANKLIN D. RAINES,
Director.

Mr. KENNEDY. Mr. President, I will just review it very quickly.

I am writing to express the administration's position on the conference report on the Federal aviation authorization.

There are many positive aspects of the conference report, including vital provisions, which we strongly support. The bill authorizes the Federal Aviation Administration's program, including the Airport Improvement Program, which enables the award of critical safety and security capacity expansion granted to the airports throughout the country.

H.R. 3539 also includes several important aviation security initiatives including many recommended by the Vice President's Commission on Aviation Safety and Security. In addition, the bill provides for many important reforms to the FAA that will enhance air travel safety.

Unfortunately, the conferees to this bill also added a new controversial provision which would reinstate the coverage of "express companies" under the Railway Labor Act. The provision appeared in neither bill and was agreed to without hearing or public debate. Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination Act believing that the last express company went out of existence years ago.

That is the REA.

The administration believes that the provision is not a technical amendment—

I will stress, "not a technical amendment." "Not a technical amendment."

to transportation labor law. In fact, it could result in a significant shift of the relationship between certain workers and management. We hope Congress will not jeopardize aviation safety, security and investment initiatives as it comes to closure on this issue.

Accordingly, the Administration opposes inclusion of this extraneous "express company" language in H.R. 3539, and urges the Senate to complete action on this important bill.

Mr. President, there you have it as well. They understand us. I do not know how much more we have to do. I do not think much more because anybody who has followed this discussion or debate can see and understand very clearly that this is not a technical amendment. Here it is in the administration's review, Congressional Research Service independent review, members of the various committees who understand the history and the background of this review, that it is substantive, and as the administration's own letter points out, "the provision is not a technical amendment to transportation. In fact, it could result in a significant shift in the relationship between certain workers and management."

That is the issue. That states the issue. It affects the relationship between workers and management. Now, let us get to what that really means in

terms of the workers and the management.

Mr. President, I regret very much that we are facing the impasse, but an important issue of principle is at stake—whether a large and powerful corporation can abuse its power and misuse its influence and obtain an unjustified benefit that flagrantly undermines the basic rights of employees. Let us get to the real issue, and that is the rights of working families. That is what is at stake, the rights of these workers' families who have pursued their interests under what they believed would be the law under the National Labor Relations Act, and that is the trucking operations would be under the National Labor Relations Act. They have not been able to get the final judgment and decision but the matter is in litigation. They believed they would be under that National Labor Relations Act. I think any fair evaluation, looking at UPS and other examples of holdings, would say they would.

Now, the issue at stake here has nothing to do with aviation security. It has everything to do with special interest legislation of the worst kind. The Senate Republican leadership is cynically using the aviation bill to conceal their antiworker payoff to the Federal Express Corp. The delay in the vote gives us time to shine the spotlight of public opinion on this unacceptable antilabor rider. I am optimistic that in the coming days we can succeed in passing a clean aviation bill without the Republican personal interest provision. That provision is designed solely to deny employees of a single corporation their right to join a union.

Truck drivers employed by the Federal Express Co. in Pennsylvania began organizing a union because they had not received a raise in more than 7 years. It is unconscionable for the Senate to intervene on the side of management to deny those men and women their rights.

Federal Express is a company that has grown rapidly in the past 20 years. The original motto of the company was, "People, Service and Profit." But as the company grew the rank and file men and women who contributed so much to the growth of the company found that they were being left further and further behind.

In 1991, truck drivers at Federal Express in Pennsylvania began organizing to address the same economic issues that face most working families. Not only had Federal Express truck drivers been denied a pay increase for over 7 years but the drivers also were concerned about company decisions subcontracting their routes, hiring temporary drivers instead of full-time regular employees, and reducing their hours on the job.

The organizing effort started with a group of 12 employees in Pennsylvania. After months of preparation, the workers filed a petition with the National Labor Relations Board for an election to form a union of 1,200 truck drivers in Federal Express' Liberty District in Pennsylvania.

The corporation, with its intense antiunion bias, has used legal maneuvers ever since to block those employees' efforts, and 1,200 truck drivers still have not been granted a chance to vote on whether to have union representation. Federal Express' delay has not cooled the drivers' commitment to work together to improve their conditions of work. In fact, more and more Federal Express employees are standing together and standing up to management. Employees are organizing not just in Pennsylvania but in 48 other States as well.

Now in desperation Federal Express has come crying to Congress to obtain this special interest rider to block their employees' efforts.

Now, who are these workers? Let me tell about some of the people at Federal Express, people who have worked hard year after year, people who want nothing more than to provide for themselves and their families. They are loyal workers. They are proud of Federal Express and the work they have done to build the company into a national powerhouse but they want to join together to better themselves. They want a voice. They want the ability to organize and address issues that are of concern to them.

Let me tell you about some of them. We heard from Leanna Cochran, from Indiana, who worked for Federal Express for 14 years as a courier, truck dispatcher and, in her own words, "anything else that needed to be done."

When she joined there were 80 employees in the area. Now there are 4,000. She told us how proud she was to wear the uniform.

We dedicated our lives to making Federal Express what it is. In the late 1980's, I often worked over 100 hours per week. My friends say I have purple blood.

Meaning the symbolic color of the Federal Express.

My friends say I have purple blood. Now there is no overtime because the company is contracting out more and more of its work. As Federal Express grew, management stopped caring about the people. The company's President, Fred Smith, has said there will never be a general pay increase in Federal Express, only performance standards that are impossible to meet. Even Fred Smith could not meet them.

Joe Carney, a tractor-trailer driver at Philadelphia station for 16 years, is 1 of the 12 original employees who met in 1991 to try to start a union.

I've always given 150 percent of my effort loyally to the company, and I still am. I'm a team player, but I feel strongly that we need to have a union to help the workers. As a senior employee, I've seen my wages, benefits and other conditions steadily erode. At one point I didn't have a raise for nearly 7 years.

He explained that Federal Express' success, growing from 5 to 17 truck terminals in the Philadelphia area while he has worked there, has not translated to better wages or job security for the workers.

We are all dismayed by what is happening in Congress. It's difficult for us to understand why any Senator would support a special interest provision for Federal Express that will undermine our efforts to get a union or try and build a better life for ourselves and our families.

Elizabeth Tucker, 42 years old, has been paying taxes for 24 years. She is a Vietnam era veteran. She enlisted in 1973. She served her country. She was a married mom for a number of years but was divorced and had to go to work to support herself and her 10-year-old daughter. She took a job at Federal Express in 1987. She started as a package handler, then a service agent, then become a truck driver, which she is today—a hard working, loyal employee since she started.

Last year, her mother was diagnosed with cancer. She asked the company to work with her so the family could help her mother with cancer treatments. She asked to use all of her own time, her vacation time, and her personal time to arrange her schedule with her sister and four brothers so that their mother would not have to go through the cancer treatment alone. Federal Express told her she could use her own time and arrange it with her sister and brothers so that they could take care of her mother.

They all arranged their schedules to take care of their mother, but 7 days before she was to take the time off to take care of her mother, Federal Express said they were not going to honor their agreement with her, they were not going to let her take the time off to take care of her mother. She had to rearrange everything with her sister and brothers so that their mother did not have to undergo cancer treatment by herself. To make matters worse, her daughter had recently had an infectious intestinal disease which required her to take time off to care for her. She was also exposed to the disease and therefore could have been contagious.

What did Federal Express do? Just before they finally agreed to let her go to take care of her mother, they gave her a disciplinary letter due to her absenteeism—because she missed work because she and her daughter were sick. Imagine the stress. Her mother has cancer, her daughter is sick, all she wants to do is use her own time to take care of her mother. Her employer finally lets her, but sticks a disciplinary letter in her hand.

Her job is stressful also. Her truck has to make 100 stops a day. Federal Express gives a money-back guarantee if a package is not delivered before

10:30 a.m. Drivers are required to deliver packages within 3 minutes of each other during the morning. From the time they hand one customer a package they only have 3 minutes to get the next package delivered. This is not only stressful, but raises serious, serious safety issues because it requires the drivers to drive as fast as possible to get to the next stop. If drivers take more time than the company requires, they can be denied performance pay, or get a letter that they are not working up to par—or it could lead to a disciplinary letter. The pressure is intense.

The company has asked drivers to shorten their time between deliveries and asked for them to get there at 90 percent of the time they had last year, and are asking for it to be done in only 87 percent of the time this year. They can only drive so fast.

Elizabeth Tucker has been working hard for Federal Express, driving and meeting the demands of her employer for many years now. She is trying to meet her family needs also. She is doing her best.

Bill Chapin lives in Indianapolis, has a wife and two children, a boy and a girl; he served 6 years in the Navy, enlisted. He is a Vietnam-era veteran. He has been working for Federal Express for 13 years as a truck driver; works with another 125 truck drivers at his shop. He is very proud of his work. He worked 96 hours one week, did everything to build the company, did everything he was asked to do, did whatever it took to get the job done. "Now the focus is all on profits, not people," he says. "They have been reducing the hours, hiring more and more part-time and temporary employees. No pay raise for many years."

But pay is not the only issue. Bill was chairman of the safety committee in his shop, and there were numerous workplace injuries and accidents. Most of these resulted from the requirement to meet very, very strict time deadlines. People injured themselves trying to meet these deadlines. People also got into car accidents trying to meet the deadlines.

Bill talked about the danger created by drivers who had to make the 10:30 money-back deadline. He said that from 10:15 to 10:30 every morning, people's lives are in danger as drivers go as fast as possible to meet the deadline. He said if a driver is late, he could get written up or he could lose his job. These drivers have families. They cannot afford to lose their jobs.

Unfortunately, that means people get injured, and it means that there are truck accidents. Bill heard about these at the safety committee meetings he attended. He remembered one meeting in particular, in 1993, when a truck driver in Chicago was trying to meet a 10:30 deadline. It was about 10:28 or 10:29 and the driver was trying to find the address of his next stop and did not see a 70-year-old woman crossing the road, and the driver hit her.

After listening to this report at a safety meeting, Bill quit the committee. Pay is important and Bill wants better pay and benefits, but Bill also wants a safe workplace and wants a voice to talk about these issues. He wants to organize. He served his country in the Navy. He is a good and loyal employee. He has worked hard to support his family. He just does not understand why the U.S. Senate would help his employer prevent him from joining with his fellow workers.

Ros Ranamon has a wife and a 21-month-old daughter. He is a truck driver in Washington, DC. He works with 300 other truck drivers, and has been with Federal Express since 1992, but he is considered a senior employee because the turnover is so high. He started as a part-time employee with Federal Express. When he was part-time, he was sick with the chicken pox, but the company had no disability benefits for part-time employees. He had only 5 sick days. After they started to organize in the company, the company began a part-time disability program for its part-time employees.

So it is not just pay. Sure, pay is important, and he would like better pay. But the employees need better benefits also.

There are other parts of the job that they need to organize for. For example, the company requires them to take a job knowledge test every 6 months. If you fail the test you could lose your performance pay. You get written up or lose your job, but no employee has a right to see the tests or the answers. Some were told they failed the test and would suffer the consequences, but they found out the test scoring system did not always work right. Sometimes it failed people who passed the test. He just works hard to raise his family. He is just trying to make a decent wage. He is just looking for fair treatment.

Ros Ranamon talked about how Federal Express gives all its employees nice, sharp uniforms, but employees' pockets are empty. They just do not give the employees raises, not until some of the employees tried to organize a union.

These workers, and thousands more like them, deserve better.

We had these people who commented today in our committee room, and behind them another 20, from Federal Express. These are individuals who need those jobs, and talked about their own personal experience. They talked about the sickness and illness of members of their family, about their children. It is a very difficult thing to do.

They were willing to share that. Frankly, it takes a good deal of political and moral courage, because there is no question that those individuals are going to be targeted. I hope not. I hope I am wrong. We will watch very closely those workers who are loyal, dedicated to Federal Express, each and every one of them. They indicated dedication to Federal Express, but that they wanted fairness and decency in the workplace to deal with some of these grievances. They wanted at least the opportunity to be able to see if they could convince other members to be able to join a union.

Maybe they could not, but they were trying to play by the rules of the game that are defined under the National Labor Relations Act. Their case is moving ahead since 1991.

But after this amendment that we are talking about here on the floor of the U.S. Senate, effectively you are wiping out their efforts to play by the rules. Men and women who have served in Vietnam, have been working since childhood, who have children of their own, playing by the rules—but, nonetheless, the big company comes in, planning to expand its trucking operation, trying to get an inside deal, trying to get an inside advantage. One company benefits and its name is Federal Express, and we are being asked to go ahead and continue with that, which is no more technical than a man in the Moon.

CRS recognizes it, the administration recognizes it, the House Members who are members of this committee recognize it. And any fair reading of the history of this measure and the actions that were taken would understand that as well.

These workers, and thousands more like them, deserve better. They deserve the right to decide for themselves whether and how they want to organize and deal with their employer. They should be allowed to join with other Federal employees in their area to form a union to protect their interests. There is no reason whatever for Congress to intervene on the side of management to block that effort.

Make no mistake about it, that is what this is about, tilting the scales for management. That is what the purpose is, to give them a leg up against those workers. Federal Express is determined to deny these Pennsylvania workers and other groups of employees in other States across the country the right to organize on a local basis. That is what this antiworker rider is all about.

So, I say: Shame on Federal Express for their pursuing this, and on our Members of Congress, in the final hours, for including it. Let us fight to reject cloture and reject this special interest rider, and permit employees of this company to decide for themselves whether and how to bargain with their employer.

The aviation bill will pass in a second once this antilabor rider is removed. There is no threat whatever to the aviation bill. The Republican Senate is knee deep in Republican hypocrisy as

Republican Senators talk about the importance of the aviation bill. We all agree on its importance.

What we don't agree on is that this bill should be used by the Republican leadership in the House and the Senate to sneak through into law a special interest antiwork payoff to Federal Express at the expense of the corporation's deserving, long-suffering employees.

Few things more vividly illustrate the antiworker bias of the Republican Congress than this shameful antiworker rider. Republicans say, "Who cares about a handful of truck drivers in Pennsylvania?"

We reply, "We do. Democrats do. Democrats are on their side."

We make no apology fighting for them against this shameful Republican maneuver. Those Pennsylvania workers are a symbol of what is wrong with this Republican Congress. A farewell gesture by the Republican-controlled Congress as we adjourn for the election is to try to enact a law, one more in their long line of antiworker proposals. The American people understand what happens here. There will be two votes on this issue: one is on Thursday in the Senate, and another on election day in communities across this country.

Mr. President, as I mentioned, these will be the final actions that will be taken by the Congress, and in thinking about this particular measure and listening to those who hold a different position, I was thinking back over the period of the last 2 years and what has been the record with regard to working families by the leadership in the House and Senate of the United States.

I step back to the early part of this Congress, to the period in February and March of a year ago, and see one of the first actions that was being put forward in the Congress and the Senate of the United States was the repeal of what we call the Davis-Bacon Act. That is to use a prevailing wage, whatever the average wage is in a particular labor market area, on the building of Federal construction, so that the fact the United States is contracting in a particular geographic area will not either raise or depress the wages of working families. That applies to the construction industry, which is the second most dangerous industry—mining, No. 1, construction, No. 2.

The average wage across the country and in my State of Massachusetts under the Davis-Bacon work for construction workers is $27,500—$27,500. I was asking myself, what do our Republican friends have against workers who are working in one of the most dangerous occupations making $27,500, individuals who have acquired skills, have gone through various training programs? What is it about those workers, given the range of different challenges that we are facing in this country, what is it about those workers in the construction industry that we are going to say, "We're going to undermine and we're going to make sure they are not even going to average $27,500."

Nonetheless, that effort was made not just once, not just twice, not just three times, but on a whole series of pieces of legislation. They added the repeal of Davis-Bacon to the National Highway System, and we blocked that. Then they tried to include the repeal of Davis-Bacon in their budget bill in 1995, but, once again, we forced them to remove it.

Time in and time out, not just to raise this issue and let the Senate judge it and then say, "All right, so the decision has been made that we are not going to repeal it," but relentless—relentless—to try to undermine working families that are going to make $27,500 in the construction industry.

So we said, "All right, that is just the beginning. That is just the first program." But it was just about that time that we had the Republican budget, and the Republican budget was going to provide over a 10-year period an additional $4 trillion for what would be considered corporations and individual tax benefits. There was only going to be one area where there were going to be tax increases—$4 trillion for companies and the wealthiest individuals, but only $20 billion of raising the taxes.

One could say, "Look, out of all of those tax loopholes, certainly we ought to be able to find $20 billion in there." I can think of several of them. They come to mind now about the issues of deferral or title transfer, and other items, which are just gimmicks which work to an unfair advantage for those who take advantage of them.

We thought we might be able to recover the $20 billion. The answer to that was no. The Republican leadership wanted to increase the taxes on working families, again, by reducing the earned income tax credit. Who benefits from the earned income tax credit? Workers who make below $28,000 who have children. They are the principal beneficiaries. As the income goes down, they are able to participate in the program, and it is actually phased out at about $30,000. Here we have a $20 billion tax increase on working families that are below the $30,000.

Cutting back on construction workers, cutting back on workers who have children with the earned income tax credit.

Mr. President, it did not take long right after that when I, Senator DASCHLE, and a number of our colleagues—my colleague, Senator KERRY, Senator WELLSTONE, Senator LEVIN, and many others—introduced an increase in the minimum wage for working families, for individuals who work 40 hours a week, 52 weeks of the year.

Since the late 1930's, Republicans and Democrats have come together to make sure those people who are going to work are going to be able to acquire sufficient income so they do not live in poverty. We were going to honor work in America.

In 1980, a family of three was at the poverty line. But over the last 5 years, we have lost the purchasing power. It is at a 40-year low. All we wanted to do was to try and bring that purchasing power just about close to what the poverty line would be for a family of three.

All we found out was the strong opposition of the Republican leadership. This is what House Majority Leader DICK ARMEY said on January 24, 1995:

> I will resist any increase in the minimum wage with every fiber in my being.

This is what the Republican whip, TOM DELAY, said:

> Working families trying to get by on $4.25 an hour don't really exist.

Well, Mr. DELAY, why don't you talk to the approximately 4 million families that got the 50-cent addition yesterday?

The increase in the minimum wage is a woman's issue. Sixty-six percent of those who get the increase in the minimum wage are women. It is a children's issue, because of the millions of children living in families that are dependent on that increase in the minimum wage. It is an adult issue. Seventy-seven percent of those who receive it are adults.

Mr. President, not according to our Republican leadership. Here is our Republican conference chairman, JOHN BOEHNER:

> I'll commit suicide before I vote on a clean minimum wage bill.

And so they went on, refusing to permit at least our committee to have a hearing on the increase in the minimum wage so we could review whether it is inflationary or whether there is going to be a job loss. Important studies indicate in a number of instances an expansion of the job market, because more people, who had gotten out of the job market, will come back because they want to participate because they think it is well worth their efforts to work at that figure. We wanted to have a hearing to put some of those issues to rest, but we were denied even an opportunity to have the hearing.

Then we came to the floor, and time in and time out, the Republican leader, Senator Dole, resisted every single effort that we made in order to get a minimum wage increase scheduled on the floor of the U.S. Senate and went to extraordinary heights to make sure we were not going to get it.

We finally did get it, and after we got it, what did the Republican leadership try to do? Tried to reduce it, No. 1, and delay its implementation, No. 2. It was supposed to go into effect July of this last year. It went in effect in October. There were talks about trying to do it in mid-January or February.

You know, the interesting reason why it was that time was so that the large commercial stores could have the lower wages during the Christmas period. That was the reason. Thinking about working families? Thinking about those people that are out there trying to make a living? That was the position with regards to working families.

That is why, Mr. President, when we are coming with the last action of this legislation, many of us are not surprised of the virtual uniform support for this provision on the other side and the virtual Republican unanimity in the House of Representatives. We have seen what that record has been and what value they have placed on the interests and the grievances of working families—working families.

Another area, of course, that they have great interest in the working families is the——

Mr. STEVENS. Will the Senator yield?

Mr. KENNEDY. I would like to continue.

Mr. STEVENS. I think the Senator's time has expired some time ago.

Mr. KENNEDY. I asked consent to be able to proceed, and I was granted consent to be able to proceed.

Mr. STEVENS. When was that?

Mr. KENNEDY. When I started.

Mr. STEVENS. I don't remember the Senator being granted extra time. I was very indulgent. The Senator has been speaking for 40 minutes.

Mr. KENNEDY. I don't believe it has been that long.

Mr. STEVENS. I have not spoken on this issue now for 2 hours.

Mr. KENNEDY. I was here at 2 o'clock. And we know, at least in the earlier time, you indicated that you were prepared to see that I was going to be able to be given time.

Mr. STEVENS. That is true.

Mr. President, isn't the Senator from Alaska entitled to half of his time?

Mr. KENNEDY. I ask for the regular order, Mr. President, to be able to proceed.

The PRESIDING OFFICER. The Senator from Massachusetts is acting 10 minutes over his time. And I am not aware of the consent before I took the Chair.

Mr. KENNEDY. Well, Mr. President, as we found out earlier in the afternoon—I mean, the Senator from Alaska has pointed out—my good friend and colleague, Senator HOLLINGS, spoke using other time yesterday, and using, allegedly, our time today under the interpretation that was made on this. I had understood that I was going to be able to have the chance to speak. And I will ask for 10 more minutes to be able to conclude my remarks.

Mr. STEVENS. I do not have any objection if the Senator wants additional time, but I would like some time now. I mean, I thought this was equally divided. The Senator has spoken for now almost an hour this afternoon. It is very interesting, a Democratic campaign speech, Mr. President. But I have not heard much about the bill before us for the last 40 minutes.

So I do not have any problem giving the Senator extra time to speak on the bill, but why should I listen to this bunch of stuff that is going on over here that is not true? We can speak all night and half run the campaign from here. We are the only ones listening to the campaign here. But I have been hearing about nothing but a bunch of stuff about taxes.

Mr. KENNEDY. Regular order.

The PRESIDING OFFICER. If I could interject here, the Chair asks that Members to address other Members through the Chair.

The Senator from Massachusetts has made a request to be granted 10 more minutes. Do I hear an objection?

Mr. STEVENS. I object, unless after this Senator gets to use some of his time.

Mr. KENNEDY. I withdraw the request, Mr. President.

Mr. STEVENS. I ask unanimous consent that the Senator from ——

Mr. KENNEDY. I asked earlier to be able to proceed without interruption. I was granted recognition for that. I would ask, is the Chair going to respect that or not going to respect it? I will be glad to abide by whatever the Chair says. I intend to sometime be able to make this talk, whether it pleases the Senator from Alaska or not. I intend to make it. And I know that he might not want to hear it. But I will be glad to do it at one time or the other.

The PRESIDING OFFICER. If the Senator from Alaska would withhold, the Chair is not aware of any arrangements prior to my tenure in this chair. The Chair advises, the Senator from Massachusetts has gone 9 minutes over his time, and he has asked for 10 more minutes, and I did hear objection.

Mr. KENNEDY. Mr. President, I withdraw the request.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I ask to be added to the Senator's time that he has previously been allowed such time as he seeks now, 10 minutes.

Is that what the Senator seeks?

Mr. KENNEDY. I am not making any—I will take my chances when I—I know the rules of the Senate, and I will get a chance to speak tonight. I will take my chances and get the floor when I can.

Mr. STEVENS. That is what I am afraid of.

Mr. KENNEDY. That is too bad.

Mr. STEVENS. I have no desire to be here all night because the Senator is piqued now.

I want to ask how much time he wants so we have some understanding. We were supposed to have 3 hours equally divided. We had 3 hours equally divided. How much more time does the Senator want?

Mr. KENNEDY. Such time as I might use. And I yield the floor at the present time.

Mr. HOLLINGS. Mr. President, I would like in on this discussion.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. When the Senator from Alaska and the Senator from Massachusetts have completed, I think I ought to be able to answer the charges about my amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STEVENS. How much time does the Senator seek now?

Mr. HOLLINGS. Ten minutes.

Mr. STEVENS. Mr. President, first, let me ask unanimous consent that the time of the Senator from Massachusetts be extended for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. How much time does the Senator wish?

Mr. KENNEDY. I appreciate the sincerity of the Senator's inquiry on this, but I will take—under the rules of the Senate, I will be able to get recognition at an appropriate time. I will take such time as I will use. We were all set to have an hour and a half divided, as we did yesterday, Senator. We would have finished this whole debate at 5 o'clock. And then we have had the jiggling of what I consider rules by skewing the time between those that either favor the amendment or not. I know the Senator has a different time. But since that has been the case, I know my rights under the Senate rules. And at the appropriate time I will regain the floor and complete my statement.

Mr. STEVENS. Mr. President, I again read, "on Wednesday, October 2, there be 3 hours for debate only, to be equally divided between the two leaders." And we are trying to do that. I would be willing to, in view of the misunderstanding, to extend that time for the Senator from Massachusetts. But as I understand it, this is the only debate today. Maybe the Senator knows something I don't know. But at the present time, the Senator from Massachusetts objects to the extension of time to meet his needs.

I will yield 10 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. HOLLINGS. I thank the Senator.

Mr. STEVENS. Will the Senator withhold for just a minute?

Mr. HOLLINGS. Yes.

Mr. STEVENS. Let me try it this way.

Mr. President, I ask unanimous consent that the Senator from Massachusetts be given the time following the

time that the Senator from South Carolina has asked, equal to the time that the Senator from South Carolina uses—it's 24 minutes, I understand.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I yielded time to the Senator from South Carolina time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, aside from the procedure, the allocation of time where you can't even move at this particular point to satisfy the distinguished Senator from Massachusetts, let me refer immediately to the chart that is behind the Senator.

As you know, irrespective of the time allocation, Mr. President, the subject allocation was clear. And the subject allocation was an amendment by the Senator from South Carolina governing Federal Express or express companies in the Federal Aviation Authorization Act.

And if the TV could go around, they could come right to this, "Why? Pay for tax cuts for the rich, help Republican special interests." "Republican attack on the middle class, slash Medicare, slash education, slash college opportunities, slash wages for working families."

I think, Mr. President, of the octopus method of defense, whereby the octopus, once cornered, squirts out this dark ink around the waters and then escapes within his own dark ink. I can tell you here and now by the references of the—and I quote—"Republican special-interest provision" that nothing could be further from the truth. Nothing could be further from the truth.

This Senator from South Carolina has been a Democrat since 1948.

I am not yielding to the Senator from Massachusetts on who is the Democrat and what is the Democrat's proposal. I proposed this, I proposed it proudly, I proposed it fairly, and exactly as the Senators and House members on the committee, by a vote of 8–6, would have it proposed, and by a majority vote in the U.S. House of Representatives, and has been approved.

I am not coming here with this talk about the Republican special interest provision, "Shameful Republican maneuver." I put it in there. Why is it important? To answer the question of the Senator from Wisconsin, it is a matter of honor. We made the mistake. Federal Express did not make a mistake. Federal Express did not ask for anything. I was told that we left out the reference "express company" inadvertently—not at the time we voted; it was after we voted. This particular ICC Termination Act, back in December, and after it was voted out, Mr. President, in the drafting of the final measure that we automatically signed, it was eliminated as I related earlier.

To come up with an antiworker charge, an issue of fairness and fundamental justice and all of that—they are ready to vote everything else. They are holding it up, after they moved to postpone, after they asked the entire report be read, and then make again the categorical statement, "No court has held Federal Express as an express company under the Railway Labor Act."

Well, we have some U.S. court decisions since commencing operations 23 years ago, and I ask unanimous consent that this listing, Mr. President, be printed in the RECORD.

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

FEDERAL EXPRESS IS COVERED BY THE RAILWAY LABOR ACT—THE TECHNICAL CORRECTION DOES NOT CHANGE THAT STATUS

Since commencing operations 23 years ago, Federal Express and its employees consistently have been determined by the federal courts, the National Mediation Board and the National Labor Relations Board to be subject to the RLA. *See e.g., Chicago Truck Driver, Helpers and Warehouse Workers Union v. National Mediation Board*, 670 F.2d 665 (7th Cir. 1982), *Chicago Truck Drivers, Helpers and Warehouse Workers Union v. National Labor Relations Board*, 599 F.2d 816 (7th Cir. 1979); *Adams v. Federal Express Corp.*, 547 F.2d 319 (6th Cir. 1976), *cert. denied*, 431 U.S. 915 (1977); *Federal Express Corp.*, 22 N.M.B. 57 (1995); *Federal Express Corp.*, 22 N.M.B. 157 (1995); *Federal Express*, 22 N.M.B. 215 (1995); *Federal Express Corp., 22 N.M.B. 279 (1995); Federal Express*, 20 N.M.B. 666 (1993); *Federal Express*, 20 N.M.B. 486 (1993); *Federal Express*, 20 N.M.B. 404 (1993); *Federal Express*, 20 N.M.B. 394 (1993); *Federal Express*, 20 N.M.B. 360 (1993); *Federal Express*, 20 N.M.B. 7 (1992); *Federal Express*, 20 N.M.B. 91 (1992); Federal Express Corp., 17 N.M.B. 24 (1989); *Federal Express*, 17 N.M.B. 5 (1989); *Federal Express Corp, and Flying Tiger Line, Inc.*, 16 N.M.B. 433 (1989); *Federal Express Corp., 6 N.M.B. 442 (1978); Federal Express*, N.L.R.B. Case No. 22-RC-6032 (1974); *Federal Express*, N.L.R.B. Case No. 1-CA-22,685 (1985); *Federal Express*, N.L.R.B. Case No. 1-CA-25084 (1987); *Federal Express, N.L.R.B. Case No. 10-CCA-17702 (1982); Federal Express Corp., N.L.R.B. Case No. 13-RC-14490 (1977); Federal Express, N.L.R.B. Case No. 13-CA-30194 (1991). The charges filed with Region 13 in Chicago, Case No. 13-CA-3019 and Region 1 in Boston, Case No. 1-CA-22,585 were withdrawn after we presented the above evidence of our jurisdictional status.*

The National Mediation Board (NMET) recently ruled on Federal Express RLA status by stating unequivocally that "Federal Express and all of its employees are subject to the Railway Labor Act." *Federal Express Corporation*, 23 N.M.B. 32 (1995).

The term "employer" under the National Labor Relations Act excludes "...any person subject to the Railway Labor Act:" 29 U.S.C. §152 (2). Excluded from the definition of "employee" under the National Labor Relations Act is"...any individual employed by an employer subject to the Railway Labor Act..." 29 U.S.C.§152 (3). The Railway Labor Act defines "carrier" as "... (including) every common carrier by air engaged in interstate or foreign commerce..."45 U.S.C. §151, First and §181. Federal Express is a common carrier by air engaged in interstate and foreign commerce, and is certificated pursuant to Section 401 of the Federal Aviation Act.

That interpretation of the statute consistently has been applied by the NMB. Section 201 of the RLA, 45 U.S.C. Section 181, provides that the Act "shall cover every common carrier by air engaged in interstate and foreign commerce . . . and every air pilot of *other person who performs any work as an employee or subordinated official of such carrier or carriers*, subject to its or their continuing authority to supervise and direct the manner of rendition of his service." (Emphasis added). In accordance with that legislative directive, anyone employed by an air carrier engaged in interstate or foreign commerce is covered by the RLA. As was explained in *REA Express, Inc.*, 4 N.M.B. 253, 269 (1965):

"It has been the Board's consistent position that the fact of employment by a "carrier" is determinative of the status of *all* that carrier's employees as subject to the Act. The effort to carve out or separate the so-called over-the-road drivers would be contrary to and do violence to a long line of decisions by this Board which embrace the policy of refraining from setting up a multiplicity of crafts or classes. As stated above, there is no question that this particular group are *employees* of the carrier."

The United States Court of Appeals for the District of Columbia Circuit noted in regard to the NMB's *Federal Express* case that "the NLRB had 'never' asserted jurisdiction over" (Federal Express'." *United Parcel Service, Inc.*, v. *National Labor Relations Board*. 92 F.3d 1221 (D.C. Cir. 1996). Federal Express has participated in five union representation elections conducted under the auspices of the National Mediation Board, the most recent in 1995, and presently is participating in a sixth RLA election.

The Ninth Circuit Court of Appeals in *Federal Express Corp.* v. *California Public Utilities Commission*, 936 F.2d 1075, 1978 (9th Cir. 1991), *cert. denied*, _____ U.S. _____, 119 LEd.2d 578 (1992) found:

"The trucking operations of Federal Express are integral to its operation as an air carrier. The trucking operations are not sonic separate business venture; they are part and parcel of the air delivery system. Every truck carries packages that are in interstate commerce by air. The use of the trucks depends on the conditions of air delivery. The timing of the trucks is meshed with the schedules of the planes. Federal Express owes some of its success to its effective use of trucking as part of its air carrier service."

That court also stated:

"Federal Express is exactly the kind of an expedited all-cargo service that Congress specified and the kind of integrated transportation system that was federally desired. Because it is an integrated system, it is a hybrid, an air carrier employing trucks. Those trucks do not destroy its status as an air carrier. They are an essential part of the all-cargo air service that Federal Express innovatively developed to meet the demands of an increasingly interlinked nation."

It clearly has been established that Federal Express is a carrier subject to the Railway Labor Act. Its employees are likewise subject to the Railway Labor Act. No court or agency has ever determined that Federal Express or any of its employees are subject to the National Labor Relations Act.

Mr. HOLLINGS. Mr. President, citing just a few, Chicago Truck Driver, Helpers and Warehouse Union, 670 F.2d 665 in the 7th circuit; *Chicago Truck Drivers, Helpers and Warehouse Workers Union* v. *National Labor Relations Board*, 599 F.2d 816. Go right on down the list, *Adams* v. *Federal Express Corporation*,

547 F.2d 319, Federal Express Corp. 22 N.M.B.—that is not the court decision, but I can continue to cite them.

Court after court, board after board, and on the contrary, the distinguished Senator from Massachusetts refuses to acknowledge the truth, refuses to acknowledge that fact, and continually, the first day, yesterday, and now again today, stating, and I listened to him clearly, "No court has held Federal Express as an express company under the Railway Labor Act."

Absolutely false. Mr. President, that is the whole point about the modification here—this is a technical amendment. This is an important amendment. It was an important error because it was very, very clear, the intent, as I read from the ICC Termination Act of 1995 conference report the following sentence: "The enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and help employers by the Railway Labor Act." So they were covered at that particular time. They were covered under a 5-year proceeding, under that Philadelphia case, finally found unanimously on November 22, 1995, and we said our intent was not to change it. Through the drafting error, we found out, months later, in 1996, that it was changed.

They do not ever ask and they do not want to find out. Mr. President, there is a letter relative to the Office of Management and Budget. They got a spurious one from the Congressional Research Service. Now, October 2, 1996, Franklin D. Raines says:

> Congress deleted express companies from the scope of the Railway Labor Act last year in the Interstate Commerce Commission Termination Act believing that the last express company went out of existence years ago.

Where did he get that? I was there. You were there. Come on. We said specifically, "The enactment of the ICC Termination Act of 1995 shall not expand nor contract coverage of employees and employers by the Railway Labor Act."

So he never called me. I could have told him, as far as I know, it was an innocent mistake. He says, "This particular Hollings amendment and the FAA was agreed to without a hearing or public debate." Where was the public debate? Where was the hearing? Where was the Members' knowledge? At least the Members know of my particular amendment. We never knew of the dropping of the language there. So they want to get so official there "that could result in a significant shift of the relationship."

Why do they not call you up and find out what really went on, and why the positive interest? They continue to make these false statements. The Railway Labor Act was not to be modified in any way and the board has decided when they continue to say it has not decided, why it is as important a matter, I reiterate again and again, a personal matter with us and members of the committee that we would correct this. It is not for any special interest corporation. Federal Express had nothing to do with it when it was knocked out, and it certainly does not have anything to do with it other than trying to help me get some votes, I hope, now, but it is not being done for them; it is being done for our particular consciences. Maybe some in the Senate do not have any conscience left anymore.

Mr. President, there was another point. They keep on talking, all that about Davis-Bacon and minimum wage. I was going to come in and get the good Government award because I voted for Davis-Bacon, and I believe the Senator from Massachusetts was trying to give me the good Government award and get on my good side, but it had nothing to do with this particular amendment.

A list of the board of directors of Federal Express is here and we find that Howard Baker, the former majority leader on the other side of the aisle, and George Mitchell, the former majority leader on this side of the aisle are among the current board—I do not believe they would go along with that particular picture of a Federal Express truck, unfair or antiworker corporation.

I have so many things to go down and begin to correct because they are just running a touchdown in the wrong direction, part of a broader agenda, and all of these things that they put in, they have yet, since the very beginning, given me the name of the Senator or the name of the House Member that knew about this particular mistake being made.

This letter, as indicated from OMB that we thought the term express company was out, a staffer over there at the ICC apparently thought that, and that is why he left it out. It was not any part of our staff, it was not any Senator, it was not any House Member, it was not any hearing, it was never discussed. Does not anyone feel, as a matter of honor, we ought to correct the mistake?

It is not technical or superfluous. It is important. You can see how they are trying to roll the U.S. Congress, how many in here with fairness and tax cuts for the rich and Republican special interests and making it a partisan thing, so we can get a partisan vote if we cannot get the 60 votes to go to cloture. It is an embarrassment. They just do not have the facts on their side. They do not have the truth on their side. They do not have the decisions on their side.

Their rights, the rights of all workers, have been protected over the many, many years, long before the Senator from Massachusetts came and the Senator from South Carolina came. But they are trying a political gimmick here with news conferences and workers, and going down the list of the workers.

I thanked the Senator from Arizona yesterday. He happened to be attendant to the particular cases. He went down to those workers. I can't keep up with the number of workers they continue to bring. I guess with over 120,000 workers the world around, they can find a few. But the "best of the best" labeling of the 100 best companies to work for in America puts Federal Express at the very top in every regard. It is an outstanding company. They have nothing to do about taking advantage. I have something to do about not being taken advantage of and correcting the mistakes that were made, never heard, never discussed, never talked about, and put it where it is. So this crowd can't come in here rolling with their getting letters written from OMB. They have political power. I know their influence. They have influence over the CRS. The poor lawyer can write, except for the sentence he was asked about. Some say he ought to be fired from the Congressional Research Service, saying it was done intentionally, when the language says affirmatively, word for word, it wasn't done.

The PRESIDING OFFICER (Mr. GORTON). The time yielded to the Senator has expired.

Mr. HOLLINGS. I thank my colleague from Alaska.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I intend to get back now to talking about the bill that is before us. I am saddened that the Senator from Massachusetts has seen fit to attack the Republicans on the floor because of the situation we are in right now. As my friend from South Carolina said, the amendment being objected to by the Senator from Massachusetts is the amendment of the Senator from South Carolina. It is not a Republican plot. I don't know what all that stuff is over there. As a matter of fact, I don't think it complies with the rules. You can have billboards, as I have here, of a certain size, in order to illustrate a point pertaining to the matter pending before the Senate, which is the FAA bill.

In any event, Mr. President, I want to make sure that everyone understands this is probably the most far-reaching bill in the history of the United States dealing with aviation security and safety. It is a bill that, if it does not become law, is going to make us next year go back to square one and start the process all over.

Meanwhile, any tragedies that happen in this country, in terms of aviation safety or security, are going to be laid right at the feet of the people who prevent this bill from becoming law. There is a possibility that tomorrow a

point of order will be raised against the bill even if we shut off debate, on the basis of the scope of this conference report.

In the conference report, we have included a series of matters that we thought were absolutely essential to the outcome of this process. The President appointed a commission. It was called the Gore Commission. That commission represented a series of things. In the things that were recommended, we have tried to include in this bill provisions that were in either the House bill or Senate bill to respond to the Presidential Commission on Airport Security and Safety.

For instance, there is the child pilot safety provision, Mr. President. That is title VI of this bill. I spoke earlier today about the family assistance provision, which was H.R. 3923. That is title VII of this bill. They are beyond the scope of the conference, there is no question about it. It takes the forbearance of the Senate to pass the bill that the House has already passed, recognizing the emergency that exists in our country coming out of recent tragedies in the aviation field.

Now, we have in this bill a provision that requires the FAA to study and report to Congress on whether some security responsibilities should be transferred from airlines to airports. That is in section 301. The FAA is directed now to certify companies that provide security screening. No longer is that going to be just an airport activity. It is an FAA responsibility now. We have provisions to bolster weapons and explosive-detection technology. Money for that is in the appropriations bill that passed now. It passed on Monday. The authorization to spend the money is in section 303. Unless the bill passes, that will not be done. There will not be explosive-detection facilities at our airports until Congress gets around to passing the bill again in the next year—hopefully. It has taken us 2 years to get it in this Congress. I predict that it will take at least 18 months in the next Congress to get back to this point.

This bill requires that background and criminal history records checks be conducted on airport security screeners and their supervisors, on those people, airport security screeners and supervisors. In other words, we are not going to let the fox in the henhouse in terms of the security of the aviation facilities.

We require the FAA to facilitate the interim deployment of currently available explosive-detection equipment. That means they will do it immediately. It is going to happen immediately if this bill passes.

We require the FAA to audit the effectiveness of criminal history records checks and encourage the FAA to assist in the development of the passenger-profiling system. We permit the Airport Improvement Program and passenger facility charges funds to be used for safety and security projects at airports. That is direct availability of funds for that purpose.

The FAA and FBI must develop an aviation security liaison agreement. They must lay out in advance how they are going to work together on security problems. FAA and FBI must carry out joint threat assessments of high-risk airports. That begins immediately when this bill passes. There is money in the appropriations bill to do it. It requires the periodic assessment of all airport and air carrier security systems, and it requires a report to Congress on recommendations to enhance and supplement screening of air cargo.

Mr. President, this bill is absolutely essential to the future security of our airports and our airway systems.

Further, let us talk about aviation safety. This bill reiterates in section 401 that safety is the highest priority of the FAA. It facilitates the flow of FAA operational and safety information primarily. It authorizes FAA to establish standards for the certification of small airports so as to improve safety at those airports.

The NTSB and FAA must work together to improve the system for accident and safety data classification so as to make it more accessible and consumer friendly. It requires the sharing of pilots' employment records between former and prospective employers to ensure that marginally qualified pilots are not hired. That is one of the basic defects in our laws today. This mandates that a new employer has the right to the pilots' records from all prior employers. Now, Mr. President, if there is any reason, above all, to pass the bill, it is right there, title V: No more defective pilots being hired by someone who does not know of the prior record of the pilot.

This will discourage attempts by child pilots to set records or perform other aeronautical feats. Unfortunately, that is required because of the recent problem we had with regard to a child pilot. Beyond that—look at this, Mr. President—this provides the authority to expend $1.46 billion on airports through this AIP program. That money can't be spent until this bill passes.

I have a whole list of things that are underway, Mr. President—underway now—and they are items that ought to proceed. I want to put some of them in the RECORD. Let me talk about some of them.

In northwest Arkansas there is a grant for the replacement of a commercial service airport. If these funds are not available the new regional airport will cease until grant funds are made available in the early next year.

In Reno at Lake Tahoe, the international airport there, they have completed a major parallel runway. But they have to have additional funds in order to complete that runway, and that must be available in the next 30 days.

They are in this bill.

The Sacramento International Airport just completed reconstruction of another parallel runway system. The immediate need is for the entitlement and discretionary funds to pay the debt for that process.

In other words, that can't be finished.

Over in Rhode Island at Providence, the Teddy Green State Airport, there is money in this bill. And if it is not available immediately the Rhode Island Airport Corp. will suffer financial hardship, and cash flow problems, if this grant is not made by the end of this first quarter of fiscal year 1996.

In Philadelphia, there is a runway under construction;

In Ithaca, NY, another runway construction;

Albany, NY, construction;

Clarksburg, WV;

Buffalo, NY;

Right here in Washington, the Metropolitan Washington Airport Authority;

Danville, VA;

Roanoke, VA;

The State airport in Baltimore;

Charlottesville, VA;

Out in Portland;

In Denver;

And, the Seattle-Tacoma Airport which is very familiar to people from my State and the occupant of the chair.

Mr. President, this is a national bill. It is money that is spent from a trust fund. It does not come from the Treasury. It comes from the trust fund. In order to take money out of the trust fund it must be specifically authorized. And this is the authorization right here. This is the bill before us.

If a point of order is made tomorrow against this bill and allows the bill to be destroyed, the whole conference report falls—the whole conference report.

From there on, you can only operate by unanimous consent; unanimous consent. This whole bill will then be dependent upon unanimous consent. Any one Senator can say, "No. I do not want go along."

Now we have three or four Senators right now who say they don't want the bill to go forward as it is. And we are flying people back here from all over the country to get 60 votes. We will get 60 votes to stop this filibuster.

That is what it is. It is a filibuster against FAA security and safety legislation because of one small provision, and the Senator from South Carolina stated what it is. It is to correct an error that was made when a bill was passed here last December.

Under the circumstances, all this business—I am a very patient man normally. At least I think I am. Some people may disagree. But I think I am patient with regard to expressions of

opinion here on the floor. But I never thought I would come out here and listen to this campaign speech from the Senator from Massachusetts when we agreed to 3 hours equally divided today to debate this conference report.

Suddenly, it has developed into a campaign debate. If it is to continue, I am going to call for the campaign people to come out here and conduct the debate. I was prepared to debate this bill, and the reason this bill must become law.

I want to say, Mr. President, in all seriousness now, if this bill is to be destroyed by a point of order on a technicality tomorrow, we are going to be around I think a long time next year, and we are going to be hearing the charges that will come out of the terrible calamity that will happen in the event there is another serious airline crash, and we end up with the same laws—the same inadequate laws—trying to deal with them. Because that has been the problem—whether it is the ValuJet in Florida or the crash over New York, these crashes now are involving so many different problems; problems of recovering the remains of the aircraft from deep water off our shores, or to try to get it out of a terrible swamp down in Florida, and all of the various problems particularly of the victims.

I think I am about ready.

What is the time situation?

The PRESIDING OFFICER. The Senator from Alaska has 13 minutes and 50 seconds remaining. The Senator from Massachusetts has no time remaining.

Mr. STEVENS. Does the Senator from South Carolina wish any more time?

Mr. HOLLINGS. Just a minute.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Senator because on the subject here, the point of order, I remind all of my colleagues. That is what is required under this unique session that we had here in the U.S. Congress this year. We could not complete our work on six of the very important appropriations bills. Many of the provisions here early on Monday and all of Tuesday were included. I got upset with all kinds of provisions that never appeared in the House side and never appeared in the Senate side.

So I am very careful not to roll anybody, or pull any tricks. And I am rather taken aback that they are trying to talk and use the expression "blackmailing," and everything else, when that is exactly what has occurred—all through the very organized Senator trying to say "blackmail" this body. And the reason the Senator from Alaska has all of this documentary evidence up here to help the Republican special interests is to, by cracky, do their dead level best to make it a partisan issue when it is not; and making it a partisan issue requiring some 60 votes; all the time clothing themselves as being so reasonable; so interested in issues of fairness; fundamental justice; and, all of that. They are clothing themselves in those garments, and then come around and gut you. We know what is going on.

With respect to pay—and then I will yield—the statement was made earlier that the young lady, or someone, who had not had a pay raise in 7 years took me aback. So I called. And I will now read what was delivered to me by Federal Express, and I quote.

> The average pay growth of the entire FedEx work force with over 1 year of service, including over 30,000 couriers, has exceeded 50 percent over the last 8 years, and has averaged in excess of 6.5 percent per year over that same time period. The officers of Federal Express are excluded from this calculation.

So the smearing of the corporation—the company—the smearing of the sponsor with the charge of "blackmail" and "jamming" it, and running around the end, and trying to pull the rug out in the middle of the game, those are all smear tactics. They know it. They know I wouldn't engage in it. I am taking exception to it as strongly as I know how.

We will stand here with the rest of them because we have the truth on our side. Hopefully the truth will prevail tomorrow in spite of these labels and machinations that go on here trying to adulterate the process. That is what they are trying to do because they don't have fairness on their side.

We are not changing any fundamental law with the Hollings amendment in the FAA bill. Rather, we are restoring the parties to where they are, we think, at the moment, but certainly where they were in December of last year before this drafting error was made at the time of the termination of the Interstate Commerce Commission.

I thank the distinguished Senator.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am informed that approximately 75 percent of our people who travel between cities in this country now go by air. In my State, as I have said before, over 75 percent of the communities in my State can be reached only by air. No one, I think, here is more sensitive to the problems of aviation safety and security than those of us from Alaska. It is an area one-fifth the size of the United States. We literally are one-quarter the size of the continental United States. When you look at our problems in terms of aviation, we live and sleep and some of our people are born and many of them die on airplanes. We have to have aviation security. I have worked long and hard on this bill. We have had some disagreements over funding of the future expansion and modernization of our airports and airway system, but I must tell the Senate there has never been a disagreement in our committee that we had to have a bill this year. It has to be done.

When we got in conference and we started adding other issues —as I have said, we added the victims rights, victims assistance legislation, the rights of families legislation, we added a couple other items here and the measure obviously was opened beyond the original scope. The Senator from South Carolina offered his amendment. I believe it was the last amendment to be adopted——

Mr. HOLLINGS. Right.

Mr. STEVENS. In the conference, and it was adopted. There was a debate on it but an overwhelming vote, bipartisan vote in the conference.

I have to tell the Chair I never suspected that we were going to have this kind of delay on this bill. To me and to the people I represent, it is the most important bill of the whole Congress. I thought that the fishing legislation, extension of the 200-mile limit bill, the Magnuson Act was important—I still think it very important—but this bill affects the lives of every Alaskan several times a week. I cannot tell the Senate how strongly I feel about getting it passed, and how sad I am to learn that in all probability there is going to be a point of order raised on this bill tomorrow.

Incidentally, we must have 60 votes here tomorrow, and we are sending throughout the country alerts to everyone to come back and vote. I think there is an obligation of all Senators to be here, but obviously it is going to take at least 60 here tomorrow to terminate this filibuster. If the filibuster is not terminated, obviously the conference report fails. If the point of order is granted, obviously, the conference report fails also. It is not going to be an easy thing to explain to the country if we are not able to pass this bill.

So, again, I urge Senators to come back, that they be informed about this bill, to understand what it is. It is not part of the chart that is behind the Senator from Massachusetts. It has nothing to do with taxes or any Republican attack on anybody. It is the most serious bill in the aviation era that has ever been passed by Congress. I hope it becomes law.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent there now be 30 minutes under the control of Senator

KENNEDY, 30 minutes under the control of Senator HOLLINGS, and 30 minutes under the control of Senator NICKLES, and following the conclusion or yielding back of the time, the Republican whip be recognized to make appropriate consents for the Senate to adjourn until 9 a.m. on Thursday.

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

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 20 minutes.

Mr. CHAFEE. I wonder if the Senator will yield?

The PRESIDING OFFICER. Does the the Senator from Massachusetts yield?

Mr. KENNEDY. I will be glad to yield for a question. We have had some exchange on the question of how we are going to proceed now. If it is agreeable, I would like to take just a few moments. We have been working through this process.

Unless it is a brief comment, I think I will proceed.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. Mr. President, I do not want to take the additional time to repeat the fundamental core issue, whether this was the technical amendment or whether it was a substantive amendment. I think that case, although there is a difference in the expression of the Members on our side on this issue, particularly the Senator from South Carolina and myself, I will let the record stand. I think the independent evaluation by the Congressional Research Service, the administration's own position, the different statements made by the Members of the House of Representatives, and the history of the debate on this issue, the conclusions that one can draw from the conference committee when that measure was addressed—all indicate quite clearly that the measure was dropped with the abolition of the Interstate Commerce Commission. And since there had not been any entity that lived up to the old railroad—REA requirements, it was an anachronism and was effectively dropped. I think that case, hopefully, has been made to the satisfaction of the Members.

Mr. President, I just want to add, this measure, with all respect to the comments that have been made around here, has been out there in a number of forms over the period of this last Congress, being pursued by Federal Express, by the Republican leadership, BUD SHUSTER over in the House of Representatives and later it was put forward by the Senator from South Carolina.

But there were more than three or four instances where this was attempted by Republican leadership in the House of Representatives. The final action on this legislation came to 203 Republicans for the bill, 15 Democrats; 168 Democrats, 30 Republicans, so it is 218 to 198, the overwhelming majority of the Democrats opposed; the overwhelming majority of the Republicans in support. I believe that is what we are going to see tomorrow. So, whether it was advanced by the Republicans or Democrats in the caucus—clearly this is a provision that is strongly, strongly supported by our Republican friends.

I want to just finally point out, as I was mentioning earlier, we should not be surprised that it is being so strongly supported by our Republican friends because I feel that the fundamental issue is the issue of fairness and equity to these workers who are trying to follow precedent as truck drivers and to be considered under the National Labor Relations Act. They were following that precedent. The precedent most visible, I think, for most of us, was UPS, where the truck drivers are effectively doing the same thing. They are the principal competitor, as well as the Post Office. And there, the truck drivers are considered under the National Labor Relations Act. The issue is whether these truck drivers will be able to be so considered. The purpose of this amendment is to make sure that they are not.

That is the bottom line on this. By not covering them, we see what the authority and the power is of Federal Express in dealing with their employees. I reviewed earlier in the day, some really extraordinary instances of grievances that Members have. I will put in the RECORD as well the pay rates that are significantly different from those that have been advanced.

Nonetheless, if the workers were so happy the company would not have to worry about having a union for them. That is the bottom line.

If everything is hunky-dory, they are not going to go ahead. That is what happens around here. It is only when there are legitimate grievances focused on pay and other grievances that there is a consideration of a union. All we are saying is let the workers make that judgment and make that decision and don't foreclose them. That happens, we believe, to be the current state of the law, and with this action, the interest of those workers would be circumvented, would be compromised. It is not the Senator from Massachusetts. We have had the CRS, the administration has said it, and those members of the Transportation Committee in the House have reaffirmed it.

Mr. President, I wanted to take a final few moments to put this into some kind of perspective.

Should we be surprised that the overwhelming majority, in this instance it will be the Republicans in the Senate, as it was in the House, are supporting a provision that would effectively undermine the legitimate interests and rights of those truckers? Should we be surprised with it?

The point I was making earlier in the presentation is I don't think we should be surprised when we look at what the record has been over the period of these last 2 years on economic issues, minimum wage, EITC, other issues affecting income, the Davis-Bacon Act, or whether it has been the interest of workers versus the powerful special interests when we came to opening up the pensions.

Here are legitimate funds paid in by workers, and the corporate world is trying to get its hands into those pension funds. We have seen the abuses in the 1980's and the attempt, again, that was being made, in spite of votes here in the U.S. Senate saying we shouldn't do it, to open up those pensions to the corporate raiders. That is a matter of fact. Senators might not want to listen to this. Senators might disagree with this fact. But the fact of the matter is, we took action here in the U.S. Senate that would have compromised the savings of workers. We have compromised their income, and we have compromised their savings they put away for a life's dream.

Then we came back to issues that would have affected their health, their safety, and, under the fine leadership of Senator KASSEBAUM, I thought we had a bipartisan effort, virtually unanimous by our committee, unanimous here, eventually, on the floor, and we were delayed a period of 8 months before we were even able to bring this measure up.

Who would that measure have affected? Working families playing by the rules, paying the premiums, that might have some preexisting condition and might want to go to another job or to be able to continue the payment of their premiums and retain their insurance to deal with some of the most important things. Who was delaying that? Many of the major insurance companies at the cost of the workers.

That has been the history, Mr. President. Our friends on the other side might not want to hear it, they might not like it, but that happens to be the record.

When we had a bipartisan effort to do something about mental health under the leadership of Senator DOMENICI and Senator WELLSTONE, it was passed here on the Kassebaum-Kennedy bill.

Who weighed in against that provision in terms of mental health? The insurance industries. And who would have benefited from it? Working families. Who would have benefited from the leadership that Senator BRADLEY showed in trying to deal with the, I think, unfortunate restrictions that are placed upon expectant mothers and their babies after delivery and putting a time limitation of 24 hours, 48 hours with more complicated births. Who would benefit? It would be the mothers in working families, the wives in working families. Who opposed it? The insurance industry.

Our friend and colleague, the Senator from New Jersey, had difficulty with

that, and eventually it was accepted in the final hour.

Whether it has been on what we call the baby bill, or whether it has been on mental health, or whether it has been even on the proposal Senator WYDEN advanced to try and remove the gag on the doctors in this country in HMO's to give consumers full information—who are the consumers? Workers. Who is on the other side? The insurance industry. Because of the resistance we had on that, the proposal of Senator WYDEN was not agreed to.

All I am pointing out is time in and time out, over this period of time, whether it is working families, children of working families with the large cuts in the education programs—who benefits from those programs? It is the sons and daughters of working families. They are the ones who qualify for the Pell grants or the Stafford loans.

You have to be under a certain income. It can get as high as about $62,000, if you have three or four children in school. But it is, basically, for the children of working families to try and permit them to go. Nonetheless, we saw the cutbacks on the Pell grants and the cutbacks in the loan programs.

Whose children are going to benefit? It is the sons and daughters of working families.

We have the assault on the incomes, wages of workers, we saw the reduction in the education program, we saw the reduction of Medicare, which would have meant $2,400 per couple over a period of 5 years they would have had to pay out, and if they weren't able to pay it under Social Security, who would have ended up paying it? It would have been the working families who want to make sure their parents have some degree of respect and dignity.

It is with regard to cuts in the income of working families, the cutback in Medicare, or increase in the premiums of copays and deductibles, which, if the senior can't pay for it, will be paid for by those working families. There were even cuts in the Medicaid Program. We have 18 million children on Medicaid; 4.5 million under the Republican proposal would have been knocked off Medicaid. Two-thirds of the children on Medicaid have parents who are working. They are the poorest of the poor.

What is going to happen with those cuts? It slashes the wages to working families, a slash in college, slash in education, slash in Medicare, for what? To pay for the hundreds of billions of dollars in tax cuts. For whom? For the wealthiest individuals. That happens to be the fact. There are people on the other side who don't want to hear it. There were attempts to silence us on this side of the aisle from making those speeches. That was true yesterday, when my good friend, Senator MCCAIN, said, "We don't have to listen to this, we don't want to listen to it," and left the floor. Or the attempt to try and silence us here on the floor this afternoon. Those are the facts. Our Republican friends may not want to hear it, but those are the facts.

To come back to the core issue, what we are talking about is the legitimate interests, rights, and grievances of those workers in Pennsylvania, and we referred to those earlier. Should we be surprised that in the final hours, we are going to give short shrift to those workers based upon what has been the Republican leadership in the House and the Senate over this period? We should not be surprised, Mr. President. We should not be surprised.

Should we speak for those individuals? I think that we should speak for those individuals.

Should we support the FAA conference report? Sure, we should support it. The Senator from Alaska knows we could call up a clean bill, and it would pass in 5 minutes—5 minutes. No one has to come back. That issue is resolved. Turn the lights down in the U.S. Senate and let's go back and have the debate with our constituents across the country on what kind of future the American people want to support.

Do they want someone who is going to represent working families, or do they want someone who is going to be involved in the special interests? We do not have to bring all our Members on back. All we have to do is have the clean bill, take the conference report without those provisions that undermine the legitimate interests of working families in Pennsylvania. We could have passed that, and we would not be here this evening.

But, oh, no. We are not going to do it that way. We are just going to insist that those provisions are going to be included in any provision. "We don't care whether you're going to stay here or not and speak for them." I have welcomed the opportunity to speak for those families.

I think they have rights and they have interests, and they are entitled to someone to speak for them. I welcome the opportunity, and I consider it an honor to be able to speak for them.

Mr. President, I ask unanimous consent that a letter and a news release from Public Citizen detailing the practices of Federal Express and their impact on public safety be printed in the RECORD.

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

OCTOBER 2, 1996.

DEAR SENATOR: Tomorrow you will vote on an amendment to the Federal Aviation bill that will limit the ability of Federal Express workers to organize under the labor laws. This amendment has not been subject to any hearings or legislative debate but is a last minute add-on to the conference report.

We urge you to vote against cloture for the following reasons:

(1) If this anti-labor amendment passes, Federal Express workers will have no ability to organize to protect their safety on the highways. This is a particularly critical issue because in 1995 Federal Express (and some other companies) rammed through an amendment to the National Highway System (NHS) legislation that eliminates all federal motor carrier safety requirements for most of the trucks their employees drive—10,001 to 26,000 pound trucks. Among the highway safety standards that were abolished are hours-of-service, driver qualifications, equipment standards, and inspection requirements. This amendment was opposed by the insurance industry, highway safety organizations, the fire fighters and the Administration. Without the ability to organize for their own protection, and with a hole blown through the fabric of federal motor carrier safety requirements, these workers lives literally are on the line.

Between 1991 and 1994, the fatal injuries and crashes involving trucks in this vehicle class increased by 50% with 1,400 people killed in 1994 and thousands injured. In addition to the operators of these trucks, of course, the public at large is also at risk. UPS opposed this amendment on the NHS bill because many of the federal safety requirements are already part of their labor contracts.

(2) This is not the first time or the second time that Federal Express has used last-minute tactics to gain passage of controversial amendments to law. In the 1990 aviation authorization bill, with no hearings, exemption from local noise requirements for aircraft were pushed through. In the 1994 aviation authorization bill, Federal Express was involved in getting preemption of state regulation of truck prices, routes and services through the Congress with no hearings in the Senate where the amendment was added to an unrelated bill and only a last minute hearing in the House during the conference negotiations. State officials were outraged at the way this was maneuvered. In 1995, motor carrier safety standards were eliminated for Federal Express type trucks in the National Highway System legislation. In 1996, the anti-labor provision Federal Express seeks to get enacted in the aviation authority conference report is the most recent in a long string of such maneuvers.

These issues are major public policies that deserve appropriate hearings and evaluation. The public is already angry about the way wealthy business interests dominate the congressional decision-making process. This history of Federal Express sponsored legislation, combined with the millions of dollars it spends each year on lobbying, campaign contributions, and providing air transportation services to key members of Congress, undermines our democratic system. Federal Express has a long history of opposition to government regulations. But when they want to block their employees' efforts to form a union and gain an unfair advantage over their competitors, the sky's the limit on money and political muscle they will use to get their own customized regulatory protection made into law.

(3) There have been concerns raised on the Senate floor about the need to pass the aviation bill for protection of public safety. But many Americans also will be endangered if Federal Express workers cannot negotiate safety protections (now that federal rules are abolished) as do the UPS workers. And the limits on Federal Express workers will be permanent while the aviation system will merely experience a small delay and it is already fully appropriated. Please remember as many people die on the highway every day as die in one airline crash.

(4) The labor amendment on the aviation bill which overrules pending litigation should be fully debated in the labor committees of the Congress and subject to the same review and procedural rules that most legislation receives. If this means that the House of Representatives has to return to Washington to repass a clean aviation bill, that is a small price to pay. Hopefully, it would discourage future manipulation of this sort.

In sum, for the safety of Federal Express drivers and the driving public at large, for fairness and integrity of the legislative process, and for the workers of the Federal Express company, we urge you to vote against the cloture petition and pass a clean, unadulterated federal aviation bill.

Sincerely,

JOAN CLAYBROOK.

[From the Public Citizen, Oct. 2, 1996]

PUBLIC CITIZEN SUPPORTS EFFORT TO BLOCK SWEETHEART DEAL FOR FEDERAL EXPRESS; COMMENDS SENATOR KENNEDY'S PRINCIPLED STAND

WASHINGTON, DC, October 2.—The consumer advocacy group Public Citizen today applauded Senator Edward M. Kennedy's (D-MA) efforts to block an attempt to add a special "Federal Express protection" clause that was slipped into the Federal Aviation Reauthorization bill.

"Federal Express has a long history of opposition to government regulations," said Joan Claybrook, president of Public Citizen. "But when they want to block their employees' efforts to form a union and gain an unfair advantage over their competitors, the sky's the limit on money and political muscle they will use to get their own customized regulatory protection made into law."

Federal Express is one of the most active lobbying companies in Washington, and this attempt is a text-book example of how Washington works to benefit fat cats at the expense of ordinary citizens. In the first six months of this year alone, Federal Express reported lobbying expenses of $1,149,150 and the use of nine outside lobbying firms. And Federal Express backs up its lobbying with generous campaign contributions. In the 1993–94 election cycle, Federal Express gave over $800,000 to 224 candidates for federal office. And it's given well over half a million dollars to members of Congress so far in the 1995–96 election cycle, with $543,000 reported to the Federal Election Commission as of July 1, 1996. And just to make sure the major political parties don't forget Federal Express, they've given at least $159,900 in soft money to the Republican National Committee, and at least $100,000 to the Democratic National Committee.

To make sure its voice is heard in the Capitol, the FedEx board of directors includes high political profile members such as Former Senate Majority Leader George Mitchell, former Senator Howard Baker and former DNC Chair Charles Manatt. There are also reports of Federal Express making its corporate jets available to members of Congress and other political figures, and accepting the equivalent of commercial air fare as payment. Public Citizen is currently asking Senators and their staff to disclose any use of Federal Express aircraft for their personal, official or campaign travel.

Federal Express has used its political clout lobbying muscle and its campaign contributions to get numerous special provisions inserted into various legislation. In 1995, Federal Express was able to get exemption from federal motor carrier regulations for its delivery trucks in the National Highway System legislation. This exemption for trucks from 10,000 to 26,000 pounds was granted even though the number of fatalities from crashes of trucks in this size range increased by 50% from 1991 to 1994, when 1400 people died.

The exemption of these delivery trucks from federal motor carrier standards leaves Federal Express drivers and other motorists less protected. If the drivers had union representation, they could address safety concerns in contract negotiations. Federal Express now wants regulatory aid to make that possibility more difficult for employees to achieve.

In other years Federal Express used language slipped into aviation bills to win exemptions from state noise requirements and exemption from state price, route and service regulations. The stage for the current eleventh-hour battle was set earlier this year when Congress rejected similar amendments.

"What we are seeing is simply another flagrant example of a politically active and well-connected corporation trying to use its influence and connections to make an end run around the legislative process," concluded Claybrook. "Federal Express is trying to get it's special interest protection written into law without hearings, discussion or debate. Fortunately, Senators Kennedy, Harkin, Simon, Feingold and others who support working families are making sure the public knows exactly what is going on, and we commend them for it."

Mr. KENNEDY. Mr. President, on tomorrow we have, as I understand it, an hour of time before the vote, which will be evenly divided. I would like to ask the Chair now, who controls, just so I will know what steps, if any, to be taken this evening to be given assurance that at least those who are opposed to this amendment will have an equal time with those who are in favor of the amendment. What is the understanding of the Chair at the present time?

The PRESIDING OFFICER. The vote on the motion to invoke cloture on the conference report will occur at 10 a.m. on Thursday. There will be 1 hour of debate to be equally divided between the majority leader and the minority leader prior to the cloture vote, with the mandatory quorum call under rule XXII waived.

Mr. KENNEDY. Well, Mr. President, I am satisfied that both the majority and minority leader will work out an arrangement to ensure that the time divided will be fairly divided between those who support and those who oppose.

So I have no further requests. I thank the Members for the opportunity to make these presentations here this afternoon, and I look forward to tomorrow and hope that we can, by assuring that we are not going to gain the cloture—I hope that right after that we, if we are successful, will move to a clean bill and pass it overwhelmingly. I have every expectation that by noontime the House will be willing to accept it, as they have at other times actions which we have taken on this measure, and that we will have done justice to many workers who have been playing by the rules of the game.

The PRESIDING OFFICER. Does the Senator wish to reserve the remainder of his time?

Mr. KENNEDY. I will reserve it.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Under my allotted time I want to make certain that I relinquish at least 5 minutes to the Senator from Rhode Island, who has been waiting to speak on an entirely different subject. So if the Chair will counsel me. But I do not think I am going to take but about 10 to 15 minutes here.

Specifically, Mr. President, when the distinguished Senator from Massachusetts ends up on this important thing with pay for tax cuts, help Republican special interests, and all those other things—they are removing the charts now—talking about mental health, Pell grants, anything and everything to make it a partisan issue, I have learned in the early days, like my black friends, how to interpret.

I will never forget the story they had in the earliest days in politics when we used to have the literacy tests given. The poor black presented himself at the polls to vote. The poll watcher says, "Here. Here. Read this," and showed him a Chinese newspaper. He took that newspaper, and he turned it up there, and he then turned it around, and then he turned it on the side, and everything else. He said, "I just read it." He said, "What does it say?" He said, "No poor black is going to vote in this State today."

I read the Senator from Massachusetts. He knows that truth and the facts and the conscience is on the side of the Senator from South Carolina. What he is saying—translated—is, this is horrendous Republican conduct concurrent with the contract, like they said to the black male, and doesn't take care of mental health, Davis-Bacon, minimum wage, Pell grants, all these other things, so that the substantial Democrat vote needed for the cloture vote in the morning will stay home.

I know substantial Democrat votes who listened and have told me that they will support this opportunity to correct the mistake.

Let me emphasize, that it was a mistake. They try, in the opinion of the CRS, to say it was intentional or in the opinion of the Office of Management and Budget to say that it was intentional. But we read time and time again—every time I have to continue to turn to it—I said, here is the intent, if you really want the intent. Because we all agreed the enactment of the ICC Termination Act of 1995 shall neither expand nor contract coverage of employees and employers by the Railway Labor Act.

So according to intent, nothing was changed. But now they come and say it

was. So I said, "Well, like me, why don't you try to find a Senator who suggested it? Why don't you try to find a House Member who even discussed it? Why don't you find anybody in that conference or before or after who suggested it? Then some staffer may say, "Oh, I remember my Senator or my Congressman wanted to make sure." Not to be found whatsoever.

The truth is that the counsel at the ICC, which does not certify express carriers like Federal Express air carrier, where 85 percent of their packages are carried by air, intimated since the Railway Express Agency had gone bankrupt and their rights had been transferred, there was no need for the language.

But they all now agree, 2 months later in 1996, when we learned about it, it was an inadvertence, because it was a hotly contested thing over a 5-year period in the Philadelphia case used by the distinguished Senator from Massachusetts.

The distinguished Senator from Massachusetts says that here the poor workers are right in the middle of trying to get their rights and are being cut off at the pass by the Senator from South Carolina. Not at all. Their rights are the same as under that 5-year case on November 22, 1995, under this particular amendment.

What we are trying to do is make sure that all rights of all parties, as expressed in the ICC Termination Act, are unchanged, neither expanded nor contracted.

So we are not pulling the rug out. On the contrary, we are preventing the rug from being pulled out. We are not changing the rules of the game. On the contrary, we are trying to prevent the rules from being changed after the game. For what it was is, on November 22, by a unanimous opinion of the National Mediation Board, Federal Express was an express carrier under the Railway Labor Act. It was not until December 15 that we marked up that conference report on the termination of the ICC. That is wherein they dropped the two words, "express company." That is wherein the ambiguity is, in spite of the expressed intent. That is the ambiguity that the Hollings amendment intends be corrected.

I am proud, because we have used that device ad infinitum here this particular week in the adoption of six appropriations bills. And matters included in those bills were never in the House, never in the Senate, included for the first time, and we voted overwhelmingly for them. So do not come with procedure and technicality.

Not a special interest in the sense of giving a corporation something they never had. A special interest in the light of the truth. The truth is a special interest of the Senator from South Carolina. It is a matter of honor and conscience. When we found this mistake was made on our watch, we wanted to make every reasonable effort to make sure it was corrected.

Don't give me about hearings. The mistake was made without any hearings, without any discussion, without any knowledge. So we need not have any hearings or knowledge now. However, we did have knowledge. We did argue it in the conference. We voted 8 to 2 on a 4-to-1 vote to include it. It passed the House, and has been ready to pass the Senate since the beginning of the week, except for the motion to postpone, the requirement of the reading of the bill, for all of these machinations where they say they are not for filibuster and are engaging in a filibuster.

That is not the matter of an issue never litigated. The Teamster case in 1993 which I referred to in the RECORD stated that it had nothing to do with Federal Express, but in a unanimous opinion by the National Labor Relations Board, an opinion by the chairman stating that the United Parcel Service has 92 percent of their packages delivered on the ground, did not qualify, in contrast, as Federal Express has since its initiation or beginning in 1973.

On the contrary, it is entirely different, quoting the Teamster lawyer, "As night and day." But they come with the oozing argument, trying to get the foot in that door—what is the matter; United Parcel Service operates under the rules, why cannot Federal Express? Federal Express is operating under the rules. It has operated under the rules. There is no court decision other then holding it should operate under the rules of the Railway Labor Act.

Yet, my distinguished colleague from Massachusetts continues to say again and again and again there is no court decision finding that Federal Express is an express company to operate under the Railway Labor Act. He could not show me one decision when I asked. I asked for the grounds. Where is the decision that he finds otherwise? It is not an issue unstudied.

We formed the Dunlop Commission here at the beginning of the year under the former Secretary of Labor under President Carter, and that commission found that the provisions of the Railway Labor Act should not be changed. I emphasize the fact that Mr. Doug Fraser, former president of the United Auto Workers, was a member of that commission.

Now, Mr. President, there is no reason to waste the time of the Senate here about Federal Express being antilabor. We know Howard Baker, the former majority leader, is not antilabor. We know George Mitchell, former majority leader on this side of the aisle, is not antilabor. They are both on the board. I put in more good Government awards for recognition for Federal Express than you could possibly imagine—continuous—over the years.

In "the 100 Best Companies To Work for in America," they rated at the top in every respect for workers' rights, good housekeeping, for working men. Who is the best company for working women? They won that. For minorities, for Hispanics, in any particular regard, you find Federal Express is diligent, working, growing, and paying.

I finally have to put in, when we heard we had not had a pay raise; to the contrary, for the past 8 years, all Federal Express workers, including 30,000 couriers—not including their board members, but including 30,000 couriers—all have received an average of 6.5 percent over the past 8 years or over a 50-percent increase in their wages. That is the fact. No use to come out here and slam and paste antiworker signs with a big old Federal Express truck on them and begin a diatribe against the Republican Party. That is the worst performance I have ever seen.

I yield 5 or 10 minutes to the distinguished Senator and reserve the balance of my time.

Mr. CHAFEE. First of all, I want to thank very much the distinguished Senator from South Carolina for letting me proceed.

I ask that I might proceed for 8 minutes as in morning business.

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

RETIRING SENATORS

Mr. CHAFEE. Mr. President, there are 13 Senators who have chosen not to run for reelection. Each one I consider a friend. With each one, I have had extremely enjoyable experiences—whether it be traveling abroad, as with HOWELL HEFLIN; working on the centrist coalition, as with HANK BROWN, BILL COHEN, NANCY KASSEBAUM, SAM NUNN, and AL SIMPSON; long hours spent together on the Finance Committee with BILL BRADLEY and DAVID PRYOR; friendly times in this Chamber with BENNETT JOHNSTON, PAUL SIMON, and JIM EXON; a long time friendship that goes back over 30 years with MARK HATFIELD; and working together for our State with CLAIBORNE PELL.

CLAIBORNE PELL has been here the longest, 36 years. His splendid achievements on behalf of education will long be recognized for their benefits, not just to millions of young people, but also to our Nation.

His years on the Foreign Relations Committee have been devoted to obtaining treaties to foster a long term peace.

Our Nation's cultural life has been enhanced by his originating the National Endowment for the Arts. By any measure, his Senate career has been a splendid one.

It is always risky to single out any individuals from a star studded group such as the 13 who are retiring, but I would like to make a few additional comments regarding six of those with whom I have worked especially close.

The first five Senators I will mention were for the past 4 years in our bipartisan mainstream coalition and our bipartisan centrist coalition. We spent scores of hours together in room S–201 here in the Capitol working together to forge legislation first on health care and then on the budget.

Ever since BILL COHEN came to the Senate, he and I have exchanged views on legislation. I've listened especially careful to his thoughts on national defense and matters pertaining to the aging. It has been a joyful relationship and his penetrating appraisal of senatorial actions has been a continuous leavening to some tiring sessions that we have had. Above all, I will remember his willingness to take difficult votes in attempting to put our fiscal house in order.

As do all Senators, I have tremendous respect and affection for NANCY KASSEBAUM. That quiet manner and lovely smile hides a spine of steel. She takes courageous positions and sticks by them. She was always there when challenging budget votes had to be taken.

AL SIMPSON is noted for his humor, occasionally earthy and always pertinent. But, never should we forget the difficult subjects he has dealt with, forged into legislation, brought to the floor and achieved passage. Whether it be immigration, veterans affairs or Medicare matters, AL SIMPSON has the courage to tackle the tough issues.

Likewise, HANK BROWN has dealt with these budgetary matters that, if unrestrained, will bankrupt our country and leave no Medicare, and a Social Security System that is a shambles. His constant cheerfulness and quiet determination will be greatly missed.

The final retiree from our centrist group is SAM NUNN. Everyone knows of SAM as a defense expert, whether it's ICBM's or troop numbers in NATO, he is the leading expert. But his courageous efforts to control the Federal budget should receive equal billing. Like the other members of the centrist group, he was willing to take the tough votes. He has been a giant in this Senate.

Finally, to longtime friend, MARK HATFIELD, a special farewell. Calm, determined, devoid of side or slickness, always courageous, willing to withstand tremendous pressure if his principles were under attack; he stands as a model Senator.

All 13 of these Senators will be greatly missed and our Nation will be hard pressed to replace them with their equals.

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. HOLLINGS. 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 REAUTHORIZATION

The Senate continued with the consideration of the conference report.

Mr. WYDEN. Mr. President, with the conference report on S. 1994, the FAA bill, is still pending before the Senate, I want to take a moment to run through the provisions dealing with air safety. Having authored these with Senators MCCAIN and FORD, I want the legislative history to be clear about how we got here and what we expect.

When we began the process, this was a relatively modest reauthorization bill, no safety measures to speak of. But we have come a long way: with this legislation, we are going beyond all the talk about safety.

The conference report includes two central provisions on air safety; the first eliminates the FAA's so-called "dual mandate" to make safety paramount at the FAA; the second requires the NTSB to make airline safety information available to the public.

Just as the American public relies on the FDA to assure that the food supply is safe, the flying public relies on the FAA to make sure aviation is safe. This is the FAA's most important and fundamental mission. Building an infrastructure for an ever-increasing demand for air travel is not.

The problem is that until today, the law gave the FAA a dual mandate. It said to the FAA, go out and promote air commerce but keep an eye on safety as well. Mr. President, that simply isn't acceptable.

The dual mandate created a dilemma for the Agency. If, for example, an FAA official believed new safety equipment, like better flight data recorders, would greatly improve safety, but it carried a huge price tag, what should that official do? That official would have to decide whether the safety benefits outweighted the costs to the aviation community. That is not the type of cost-benefit analysis I find acceptable.

That is why I sponsored the amendment, adopted unanimously by the Commerce Committee, to eliminate the Agency's dual mandate and make safety paramount. The FAA should not have to choose between safety and promotion of the industry.

The genesis for second provision on aviation safety information is my long-held belief that one thing Government can and should do is give American consumers access to good, unbiased information. It is time to adopt new policies that empower the consumer, to make it possible for consumers to get critical information about aviation safety in our country.

Everyone who flies should be able to make informed choices about the airlines they fly and the airports they use. This legislation will enable consumers to do that.

Right now, it is possible for consumers to find out if their bags may be crushed and whether their flights will arrive on-time. But it is pretty darn hard for consumers to find out if the airline they are flying on has been fined for violating a major safety law.

Back in July, Senator FORD and I wrote the FAA asking them to work with the NTSB, industry, labor and others to come up with a way to make aviation safety information available to the public.

I have talked to people in all parts of the aviation community—the FAA, NTSB, airlines, labor, manufacturers, pilots, and consumer groups—about the best way to do this. While there are certainly differences over how to do it, everyone agrees that it should be done. And I agree with those in the industry who say that anything involving safety should not be part of competition. But by having uniform definitions, standards, and public access to this information, I believe we will move safety out of the shadows and into the sunshine.

To get this kind of information today, consumers have to go through the legalistic torture of the Freedom of Information Act. I do not think that's good enough.

In addition, the kind of safety information gathered by the FAA and the NTSB is also a problem. It is pretty tough to figure out what's an accident and what's an incident. It is certainly unfortunate if a flight attendant trips and breaks a leg during a flight, but that shouldn't be recorded in the same way as an engine losing power in mid-air.

The intent of the provision in this bill is to have the NTSB make accurate information available to the public about aviation safety, including accidents and violations of safety regulations. This particular provision focuses on the NTSB, and I expect the NTSB effort to parallel the FAA's ongoing project of looking at how to make its information on accidents as well as violations of its regulations available to consumers.

In a few weeks, the FAA will be reporting back to Senator FORD and myself on the best way to handle a broader task: getting the FAA's more comprehensive safety information on accidents and fines for violations of safety regulations out to consumers. I look forward to this report.

Mr. President, there are many other important elements in this legislation, but I wanted to take this time to explain in greater detail those relating to aviation safety. These are critical components of this bill. I hope my comments will provide some guidance to

the NTSB and the FAA as they proceed to put them into practice.

Mr. ASHCROFT. I wish to congratulate Senator PRESSLER on his efforts and those of the other Senate conferees to work out a beneficial aviation bill in conference. The conference report before us covers airport grants for the fiscal year beginning yesterday, as well as a continuation of FAA programs, new aviation security measures, and other matters. The bill also establishes a process by which Congress can get recommendations from outside experts on how much funding FAA will need in future years for FAA programs, including airport grants, and who should be paying greater or lesser user taxes or fees. In this respect, I had hoped the conference report would have made clear that this blue ribbon commission should look at the issue of user taxes or charges from the viewpoint of the metropolitan areas where they are generated as well as indicating which user groups provided them. I believe that this blue ribbon commission should generate information as to the annual amount of Federal aviation user taxes that are collected or attributable to aviation activity within each metropolitan area in the United States and to compare these metropolitan area totals to the annual amounts of Federal airport grants that are annually received within each of these metropolitan areas.

This data would be highly useful to airport sponsors and metropolitan planning organizations for assessing the probable impacts of any recommended changes to the existing aviation user tax structure. The data which I wish to have developed would be for the latest year for which the information is available, and could involve estimates when actual data about the geographic source of specific aviation user taxes can't be determined precisely.

When the next FAA authorization bill is presented to us, this information would be useful in helping us make important judgments as to the equity of user taxes or fees in comparison to the airport grants our metropolitan areas have received.

Mr. PRESSLER. I agree with the Senator. The information you request should have been included within the charter of the blue ribbon commission that will be looking into these matters under this legislation. After this legislation is enacted, I will talk to the Secretary of Transportation to make sure that the Senator's request is satisfied and that the data he requests is assembled and timely made available to all of us. I appreciate his bringing this oversight to our attention.

Mr. ASHCROFT. I thank the Senator. I very much appreciate his efforts to follow through on this matter and I look forward to voting in favor of the conference report before us.

Mr. FRIST. Mr. President, when the Federal Government enacted laws regulating the trucking industry, it created the Interstate Commerce Commission [ICC] to administer regulations pursuant to these laws. These regulations were repealed during the Carter administration. However, it was not until last year that Congress finally got around to eliminating the ICC.

The purpose of the ICC Termination Act of 1995 was simply to eliminate a bureaucracy that had outlived its usefulness. By its express terms, it was in no way intended to change the labor law.

Unfortunately, a technical error in the act—if left uncorrected—could have a serious impact on labor law.

Since 1934, the interests of employees of express carriers such as FedEx have been protected under the Railway Labor Act.

Unfortunately, the ICC Termination Act inadvertently dropped the term "express carrier" from the Railway Labor Act.

This was not a deliberate change of law. In fact, the ICC Termination Act expressly states that its enactment "shall neither expand or contract coverage of the employees and employers of the Railway Act."

The provision included in the FAA Reauthorization Act that has become the target of such rhetoric and controversy is nothing more than a technical correction.

If this technical flaw in the ICC Termination Act had been detected before its enactment last year, Congress would have corrected it without fanfare.

The debate today is not about being pro-union or pro-management.

The debate today is not about wages in America.

The debate today is not about anything except making a technical correction to clarify that express carriers are in the same position today with respect to the Railway Labor Act as they were last year prior to enactment of the ICC Termination bill.

We are not plowing new ground here. We are simply clarifying that what was law for over 60 years continues to be the law of the land.

All the heat and bluster of this debate cannot change this simple fact.

I hope my colleagues will join me in bringing this debate to a close, passing the FAA reauthorization bill and righting a technical wrong.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes.

Mr. HOLLINGS. Mr. President, if the Senator from Massachusetts has completed, then I have completed.

TRIBUTE TO RETIRING SENATORS

SENATOR HOWELL HEFLIN

Mr. HOLLINGS. Mr. President, I have already spoken and put in the RECORD various praiseworthy notes of my association over the years with these outstanding Senators, both Republican and Democrat, who are leaving us. None have been closer to me, on the one hand, over on this side than HOWELL HEFLIN of Alabama. We have been in each other's States several times. I have gotten to know him and his distinguished wife, Mike—Elizabeth, I think, is her full name, if I am not mistaken. He is what someone would call a Senator's Senator. He had to serve in the role as chairman of our Ethics Committee. You can see the sensitivity of a Senator's Senator in the regard in any kind of local matter. I see they all have picked up the same thing I thought, or I picked up what they thought, relative to being the peanut Senator. The agricultural community in Alabama is going to be missing in representation, to a degree, because no one really can replace HOWELL HEFLIN.

We in the law field otherwise are going to be penalized because he, as a former chief justice of the Alabama Supreme Court, has had profound judicial knowledge and also judicial feel for the particular statutes and the issues before this particular body.

So I just cap it off by saying that this Senator is going to miss his humor. He has always had a good way of taking these complex human problems and issues and bringing them right down to the ground with some humorous story about someone he remembered back down in Alabama.

SENATOR NANCY KASSEBAUM

We are fortunate in South Carolina to have the grandchildren of NANCY KASSEBAUM. I have always admired her for what the Senator from Rhode Island just said. She is a woman of steel, who makes up her own mind and takes the very difficult stands for her politically, because sometimes her very colleagues and others around may be voting otherwise. But you can bet your boots Senator KASSEBAUM of Kansas has studied, from all angles, a particular problem and made her own judgment as to what is fair and right in the interest of the people.

With respect to our friend, BILL COHEN, he is the one literate Senator that we have. I envy him, because in the evenings when we would be attending the various parties and receptions for the different groups visiting from your home State, and otherwise, we would always miss BILL. You would find out BILL is writing another book, reading some important document, or something else. We have read and not only heard his poetry and his books, but his sum-up talk here. Just this past week, I am getting a copy of that one for the good of the Senate and getting it printed, because I think it more or less sums up what has been occurring here in Government and politics, particularly in the U.S. Senate, good and

bad, over the past 20-some years. We are going to miss him most of all, in my opinion.

SENATOR SAM NUNN

Mr. President, My neighbor is SAM NUNN. No one knows the defense budget better. No one is more conscientious about the Nation's security. No one has studied, in depth, the disarmament problem, and no one has worked to solve these particular problems, and no one has a greater respect for integrity amongst his colleagues than SAM NUNN of Georgia.

SENATOR DAVID PRYOR

Mr. President, I now want to mention my friend, DAVID PRYOR. I hope we can get him back here by morning. As we all know, his wonderful son has been under surgery down in Texas. And, of course, that is his first obligation, and we all understand that. We need every vote we can possibly get, but the most popular, obviously—and everybody will agree—was DAVID PRYOR's, because PRYOR always had a good word for everyone, and he centered on those things, such as the taxpayers' relief from the IRS, and something about the drug companies, or whatever it was. He went into it and stuck with it and then listened to the other Senators with respect to their particular interests. That is the value of service in the U.S. Senate—education. We are supposed to learn. And that is why I have always stayed in politics, because I learn something new every day. I have also learned when to hush when the hour is past 6 o'clock and staff is looking at me like an aberration.

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. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on Governmental Affairs.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At noon, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 543. An act to reauthorize the National Marine Sanctuaries Act, and for other purposes.

H.R. 1734. An act to reauthorize the National Film Preservation Board, and for other purposes.

H.J. Res. 198. Joint resolution appointing the day for the convening of the first session of the One Hundred Fifth Congress and the day for the counting in Congress of the electoral votes for the President and Vice President cast in December 1996.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:29 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2579. An act to establish the National Tourism Board and the National Tourism Organization to promote international travel and tourism to the United States.

S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 811. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes.

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 1467. An act to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1711. An act to amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans Affairs to provide for a study of the Federal programs for veterans, and for other purposes.

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine.

S. 1973. An act to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

S. 2153. An act to designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building", and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 5:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that pursuant to the provisions of section 1 of 2 U.S.C. 154, as amended by section 1 of Public Law 102–246, the Speaker appoints Mr. Edwin L. Cox of Dallas, TX, as a member from private life on the part of the House to fill the unexpired term of Mrs. Marguerite S. Roll to the Library of Congress Trust Fund Board.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 2297. An act to codify without substantive change, laws related to transportation and improve the United States Code.

H.R. 3005. An act to amend the Federal securities laws in order to promote efficiency and capital formation in the financial market, and to amend the Investment Company Act of 1940 to promote more efficient management of mutual funds, protect investors, and provide more effective and less burdensome regulation.

H.R. 3118. An act to amend title 38, United States Code, to reform eligibility for health care provided by the Department of Veterans Affairs, to authorize major medical facility construction projects for the Department, to improve administration of health care by the Department, and for other purposes.

H.R. 3159. An act to amend title 49, United States Code, to authorize appropriations for fiscal years 1997, 1998, and 1999 for the National Transportation Safety Board, and for other purposes.

H.R. 3815. An act to make technical corrections and miscellaneous amendments to trade laws.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on October 2, 1996, he had presented to the President of the United States, the following enrolled bills:

S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 811. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes.

S. 1044. An act to amend title III of the Public Health Service Act to consolidate and reauthorize provisions relating to health centers, and for other purposes.

S. 1467. An act to authorize the construction of the Fort Peck Rural County Water Supply System, to authorize assistance to the Fort Peck Rural County Water District, Inc., a nonprofit corporation, for the planning, design, and construction of the water supply system, and for other purposes.

S. 1505. An act to reduce risk to public safety and the environment associated with pipeline transportation of natural gas and hazardous liquids, and for other purposes.

S. 1711. An act to amend title 38, United States Code, to improve the benefits programs administered by the Secretary of Veterans' Affairs to provide for a study of the Federal program for veterans, and for other purposes.

S. 1965. An act to prevent the illegal manufacturing and use of methamphetamine.

S. 1973. An act to provide for the settlement of the Navajo-Hopi land dispute, and for other purposes.

S. 2153. An act to designate the United States Post Office building located in Brewer, Maine, as the "Joshua Lawrence Chamberlain Post Office Building," and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 1010) to amend the "unit of general local government" definition for Federal payments in lieu of taxes to include unorganized boroughs in Alaska, and for other purposes (Rept. No. 104–396).

Report to accompany the bill (S. 1889) to authorize the exchange of certain lands conveyed to the Kenai Natives Association pursuant to the Alaska Native Claims Settlement Act, to make adjustments to the National Wilderness System, and for other purposes (Rept. No. 104–397).

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. BROWN:

S. 2187. A bill to reauthorize appropriations for the Civil Rights Commission Act of 1983, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON:

S. 2188. A bill to provide for the retention of the name of the mountain at the Devils Tower National Monument in Wyoming known as "Devils Tower", and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2189. A bill to enhance the administrative authority of the president of Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON:

S. 2188. A bill to provide for the retention of the name of the mountain at the Devils Tower National Monument in Wyoming known as "Devils Tower", and for other purposes; to the Committee on Environment and Public Works.

THE DEVILS TOWER NATIONAL MONUMENT ACT OF 1996

• Mr. SIMPSON. Mr. President, I introduce a bill which will enable Devils Tower National Monument to retain its historic name.

This national monument—indeed, our Nation's first national monument—has been known as "Devils Tower" for over 120 years. It is known the world over as perhaps one of the most distinguishing natural features of my State and is universally known for providing some of the best crack climbing in the world.

In short, Mr. President, Devils Tower—and worldwide recognition of it, even through such movies as "Close Encounters of the Third Kind"—is vitally important to my State, which depends so heavily on our tourism industry. But, to no one's surprise, there are always those out there who cannot leave a perfectly good thing alone. William Shakespeare said it well in "King Lear": "Striving to better, oft we mar what's well."

According to a July 17, 1996 release by the U.S. Board of Geographic Names, the National Park Service has advised the Board that several native American groups intend to submit a proposal—it may already have been submitted—to change the name of the monument. The intention—and a perfectly worthy one—is to find a name that is less offensive to native Americans, many of whom regard the monument as sacred.

Mr. President, I am fully sensitive to the feelings of those involved with this initiative. My great-grandfather, Finn Burnett, was asked to be the "boss farmer" for Chief Washaki of the Shoshone Tribe. And my great uncle Deck married a full-blooded Shoshone. However, I do join my House counterpart, Congresswoman BARBARA CUBIN, in earnestly believing that little will be gained from a name change, and much history and tradition could be lost.

Be aware that there is no obvious traditional Indian name standing as the obvious alternative designation. The disparate native American groups behind this proposal cannot even agree on what the proper name should be. They seem only to agree on what it should not be—Devils Tower.

The number of suggested "aboriginal names" is as numerous as the number of different groups clamoring for the change. Among the candidates are Bear's Lodge, Grizzly Bear's Lodge, Bear's Tipi, Bear's Lair, Bear Lodge, Bear Lodge Butte, Tree Rock, and many others. So we should all understand that this is not a matter of changing the name of Devils Tower back to another which would be widely agreed upon and recognized by most native Americans. Instead, this initiative seems to accomplish little more than to dredge up age-old conflicts and divisions between descendants of European settlers and descendants of native Americans. This is most unfortunate and would result only in economic hardship for the area's citizens—"Indian" and "non-Indian" alike. My legislation would prevent such hardship and preserve the name of Devils Tower, a name widely recognized and certainly the furthest thing from being offensive to any particular ethnic group. I urge my colleagues to support this measure.•

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 2189. A bill to enhance the administrative authority of the president of Southwestern Indian Polytechnic Institute, and for other purposes; to the Committee on Indian Affairs.

THE SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE ADMINISTRATIVE SYSTEMS ACT OF 1996

• Mr. BINGAMAN. Mr. President, today, with Senator DOMENICI, I am introducing the Southwestern Indian Polytechnic Institute Administrative Systems Act of 1996.

The Southwestern Indian Polytechnic Institute [SIPI] is a first class community college in Albuquerque, NM. It offers vocational and academic courses to Indian students from across the country and from all tribes. SIPI has recently celebrated its 25th anniversary, and has developed a long-term plan for expansion of its physical plant and its instructional program.

SIPI is currently operating as a BIA-funded organization governed by the personnel rules of a Federal agency. These rules are not appropriate for an academic institute. For the last year and a half I have been working with the Committee on Indian Affairs to find a way to give the president and board of regents of SIPI control over their own personnel policies.

The purpose of this act is to enhance the authority of the president and board at SIPI to hire and promote faculty appropriately, allowing them to function more like other academic institutions. I applaud Senator KASSEBAUM for the excellent work she has done to develop similar legislation for Haskell Indian Nations University, offering Haskell the same kind of improvements in their personnel policies. Senator DOMENICI and I hope to work with her and Senator INOUYE and others to ensure that both of these institutions are provided administrative authority to operate their personnel policies well and appropriately. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2189

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 "Southwestern Indian Polytechnic Institute Administrative Systems Act of 1996".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the provision of culturally sensitive experiences and vocationally relevant curricula at Southwestern Indian Polytechnic Institute is consistent with the commitment of the Federal Government to the fulfillment of treaty obligations to Indian tribes through the principle of self-determination and the use of Federal resources; and

(2) giving a greater degree of autonomy to Southwestern Indian Polytechnic Institute, while maintaining the institute as an integral part of the Bureau of Indian Affairs, will facilitate the administration and improvement of the academic programs of the institute.

SEC. 3. DEFINITIONS.

For purposes of this Act the following definitions shall apply:

(1) INSTITUTE.—The term "institute" means the Southwestern Indian Polytechnic Institute, located in Albuquerque, New Mexico.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. PERSONNEL MANAGEMENT.

(a) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—Chapters 51, 53, and 63 of title 5, United States Code (relating to classification, pay, and leave, respectively) and the provisions of such title relating to the appointment, performance evaluation, promotion, and removal of civil service employees shall not apply to applicants for employment with, employees of, or positions in or under the institute.

(b) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—

(1) IN GENERAL.—The president of the institute shall by regulation prescribe such personnel management provisions as may be necessary, in order to ensure the effective administration of the institute, to replace the provisions of law that are inapplicable with respect to the institute by reason of subsection (a).

(2) PROCEDURAL REQUIREMENTS.—The regulations prescribed under this subsection shall—

(A) be prescribed by the president of the institute in consultation with the appropriate governing body of the institute;

(B) be subject to the requirements of subsections (b) through (e) of section 553 of title 5, United States Code; and

(C) not take effect without the prior written approval of the Secretary.

(c) SPECIFIC SUBSTANTIVE REQUIREMENTS.—Under the regulations prescribed under this subsection—

(1) no rate of basic pay may, at any time, exceed—

(A) in the case of an employee who would otherwise be subject to the General Schedule, the maximum rate of basic pay then currently payable for grade GS–15 of the General Schedule (including any amount payable under section 5304 of title 5, United States Code, or other similar authority for the locality involved); or

(B) in the case of an employee who would otherwise be subject to subchapter IV of chapter 53 of title 5, United States Code (relating to prevailing rate systems), the maximum rate of basic pay which (but for this section) would then otherwise be currently payable under the wage schedule covering such employee;

(2) the limitation under section 5307 of title 5, United States Code (relating to limitation on certain payments) shall apply, subject to such definitional and other modifications as may be necessary in the context of the alternative personnel management provisions established under this section;

(3) procedures shall be established for the rapid and equitable resolution of grievances;

(4) no institute employee may be discharged without notice of the reasons therefor and opportunity for a hearing under procedures that comport with the requirements of due process, except that this paragraph shall not apply in the case of an employee serving a probationary or trial period under an initial appointment; and

(5) institute employees serving for a period specified in or determinable under an employment agreement shall, except as otherwise provided in the agreement, be notified at least 30 days before the end of such period as to whether their employment agreement will be renewed.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to affect—

(1) the applicability of any provision of law providing for—

(A) equal employment opportunity;

(B) Indian preference; or

(C) veterans' preference; or

(2) the eligibility of any individual to participate in any retirement system, any program under which any health insurance or life insurance is afforded, or any program under which unemployment benefits are afforded, with respect to Federal employees.

(e) LABOR-MANAGEMENT PROVISIONS.—

(1) COLLECTIVE-BARGAINING AGREEMENTS.—Any collective-bargaining agreement in effect on the day before the effective date specified under subsection (f)(1) shall continue to be recognized by the institute until altered or amended pursuant to law.

(2) EXCLUSIVE REPRESENTATIVE.—Nothing in this Act shall affect the right of any labor organization to be accorded (or to continue to be accorded) recognition as the exclusive representative of any unit of institute employees.

(3) OTHER PROVISIONS.—Matters made subject to regulation under this section shall not be subject to collective bargaining, except in the case of any matter under chapter 63 of title 5, United States Code (relating to leave).

(f) EFFECTIVE DATE.—

(1) ALTERNATIVE PERSONNEL MANAGEMENT PROVISIONS.—The alternative personnel management provisions under this section shall take effect on such date as may be specified in the regulations, except that such date may not be later than 1 year after the date of the enactment of this Act.

(2) PROVISIONS MADE INAPPLICABLE BY THIS SECTION.—Subsection (a) shall take effect on the date specified under paragraph (1).

(g) APPLICABILITY.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the alternative personnel management provisions under this section shall apply with respect to all applicants for employment with, all employees of, and all positions in or under the institute.

(2) CURRENT EMPLOYEES NOT COVERED EXCEPT PURSUANT TO A VOLUNTARY ELECTION.—

(A) IN GENERAL.—An institute employee serving on the day before the effective date specified under subsection (f)(1) shall not be subject to the alternative personnel management provisions under this section (and shall instead, for all purposes, be treated in the same way as if this section had not been enacted, notwithstanding subsection (a)) unless, before the end of the 5-year period beginning on such effective date, such employee elects to be covered by such provisions.

(B) PROCEDURES.—An election under this paragraph shall be made in such form and in such manner as may be required under the regulations, and shall be irrevocable.

(3) TRANSITION PROVISIONS.—

(A) PROVISIONS RELATING TO ANNUAL AND SICK LEAVE.—Any individual who—

(i) makes an election under paragraph (2), or

(ii) on or after the effective date specified under subsection (f)(1), is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to an institute position from a noninstitute position with the Federal Government or the government of the District of Columbia,

shall be credited, for the purpose of the leave system provided under regulations prescribed under this section, with the annual and sick leave to such individual's credit immediately before the effective date of such election, transfer, promotion, or reappointment, as the case may be.

(B) LIQUIDATION OF REMAINING LEAVE UPON TERMINATION.—

(i) ANNUAL LEAVE.—Upon termination of employment with the institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551(a) and section 6306 of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so liquidated.

(ii) SICK LEAVE.—Upon termination of employment with the institute, any sick leave remaining to the credit of an individual within the purview of this section shall be creditable for civil service retirement purposes in accordance with section 8339(m) of title 5, United States Code, except that leave earned or accrued under regulations prescribed under this section shall not be so creditable.

(C) TRANSFER OF REMAINING LEAVE UPON TRANSFER, PROMOTION, OR REEMPLOYMENT.—In the case of any institute employee who is transferred, promoted, or reappointed, without a break in service of 3 days or longer, to a position in the Federal Government (or the government of the District of Columbia) under a different leave system, any remaining leave to the credit of that individual earned or credited under the regulations prescribed under this section shall be transferred to such individual's credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Office of Personnel Management.

(4) WORK-STUDY.—Nothing in this section shall be considered to apply with respect to a work-study student, as defined by the president of the institute in writing.

SEC. 5. DELEGATION OF PROCUREMENT AUTHORITY.

The Secretary shall, to the maximum extent consistent with applicable law and subject to the availability of appropriations therefor, delegate, to the president of the institute, procurement and contracting authority with respect to the conduct of the administrative functions of the institute.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 1997, and for each fiscal year thereafter—

(1) the amount of funds made available by appropriations as operations funding for the administration of the institute for fiscal year 1996; and

(2) such additional sums as may be necessary for the operation of the institute pursuant to this Act.•

ADDITIONAL COSPONSORS

S. 1189

At the request of Mr. DEWINE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 2136

At the request of Mr. D'AMATO, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from Alabama [Mr. HEFLIN], and the Senator from Colorado [Mr. BROWN] were added as

cosponsors of S. 2136, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the breaking of the color barrier in major league baseball by Jackie Robinson.

SENATE RESOLUTION 292

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Resolution 292, a resolution designating the second Sunday in October of 1996 as "National Children's Day," and for other purposes.

AMENDMENTS SUBMITTED

THE CIVIL RIGHTS COMMISSION ACT OF 1983 APPROPRIATIONS REAUTHORIZATION ACT OF 1996

ASHCROFT (AND MOYNIHAN) AMENDMENT NO. 5425

(Ordered referred to the Committee on the Judiciary.)

Mr. ASHCROFT (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill (S. 2187) to reauthorize appropriations for the Civil Rights Commission Act of 1983, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . VOLUNTARY RETIREMENT INCENTIVE PLANS OR ARRANGEMENTS.

(a) IN GENERAL.—Section 4(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(1)) is amended by adding at the end of the following new paragraph:

"(4) It shall not be a violation of subsection (a), (b), (c), (e), or (i) solely because a plan or arrangement of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) benefits upon voluntary retirement that are reduced or eliminated on the basis of age.".

(b) CONSTRUCTION.—

(1) APPLICATION.—Nothing in the amendment made by subsection (a) shall be construed to affect the application of section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) with respect to—

(A) any employer other than an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); or

(B) any plan or arrangement not described in paragraph (4) of section 4(1) of such Act (as added by subsection (a)).

(2) RELATIONSHIP TO PROVISIONS RELATING TO VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—Nothing in the amendment made by subsection (a) shall be construed to imply that a plan or arrangement described in paragraph (4) of section 4(1) of such Act (as added by subsection (a)) may not be considered to be a plan described in section 4(f)(2)(B)(ii) of such Act (29 U.S.C. 623(f)(2)(B)(ii)).

(c) EFFECT ON CAUSES OF ACTION EXISTING BEFORE DATE OF ENACTMENT.—The amendment made by subsection (a) shall not apply with respect to any cause of action arising under the Age Discrimination in Employment Act of 1967 prior to the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, October 2, 1996, at 9 a.m. to discuss renewable fuels and the future security of U.S. energy supplies.

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

COMMITTEE ON ARMED SERVICES

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10:30 a.m. on Wednesday, October 2, 1996, in open session, to receive testimony on the impact of the Bosnian elections and the deployment of U.S. military forces to Bosnia and the Middle East.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 2, 1996 beginning at 9:30 a.m. in room 216 of the Hart Senate Office Building to conduct an oversight hearing on the regulatory activities of the National Indian Gaming Commission [NIGC].

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

SUBCOMMITTEE ON CLEAN AIR WETLANDS, PRIVATE PROPERTY AND NUCLEAR SAFETY

Mr. NICKLES. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety be granted permission to conduct an oversight hearing Wednesday, October 2, 1996, at 9:30 a.m.—hearing room SD-410—on the Federal Emergency Management Agency's response to Hurricane Fran.

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

SUBCOMMITTEE ON IMMIGRATION

Mr. NICKLES. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration be authorized to meet during the session of the Senate on Wednesday, October 2, 1996, at 10:00 a.m. to hold a hearing on INS oversight.

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

ADDITIONAL STATEMENTS

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

• Mr. GORTON. Mr. President, I would like to clarify an issue with regard to the fiscal year 1997 Interior and Related Agencies Appropriations Act, as printed in the conference report accompanying H.R. 3610, the Department of Defense Appropriations Act (House Report 104-863). In section 317 of the Interior appropriations chapter, a reference is made to title VII of the Alaska National Interest Lands Conservation Act [ANILCA]. The correct reference should be to title VIII of ANILCA, which was the reference included in the official papers transmitted to the White House. I simply want to make my colleagues aware of this printing error, and clarify that the correct reference is incorporated into the enacted version of the omnibus appropriations bill.•

CONGRATULATIONS TO BILL SCHIMMEL

• Mr. WELLSTONE. Mr. President, I rise to pay tribute to William (Bill) H. Schimmel, an individual who has served the State of Minnesota for 51 years with dedication and distinction.

In December 1996 Bill will retire as a Nicolett County Commissioner. He ran for county commissioner in 1980, winning five straight elections. During his time on the board he made many contributions to his community and to his State.

Many contributions have been made to his community during his terms as a county commissioner. They include bringing the computer age to the local courthouse and library. The building of a new jail which will be paid for next year, and expanding the park system and improving the highways.

For 33 years Bill taught high school government and civics to students at Mankato High and Mankato West. Bill is a firm believer in the good of government, and feels that it is the public's responsibility not to take our democracy for granted. And, he practices what he preaches. You participate in a democracy by voting, by keeping informed, and in Bill's case, running for office in order to make things change.

His public service has also included 2 years in the U.S. Armed Forces in the U.S. Army. Throughout his life, Bill's career has been interspersed with athletic coaching, baseball umpiring and police reserve and civil defense work, as well as dedicated church and community service.

I commend Bill Schimmel on his many contributions over the years, and join with his family, friends, and colleagues in extending my warmest wishes for a well deserved retirement.

Indefagitable, Bill will continue to remain active in the community he loves.

Congratulations Bill, you're an inspiration.•

FRANKLIN DELANO ROOSEVELT HISTORY MONTH

• Mr. LEVIN. Mr. President, one of Franklin Roosevelt's most famous speeches is commonly referred to as the "four freedoms" speech. He said:

> We look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression—everywhere in the world. The second is freedom of every person to worship God in his own way—everywhere in the world. The third is freedom from want—everywhere in the world. The fourth is freedom from fear—everywhere in the world.

These optimistic words were spoken less than 1 year before the Japanese attack on Pearl Harbor. It was an anxious time for America. The United States was very reluctant to get involved in another war, but the spread of Hitler's empire across Europe and into northern Africa demanded a call to action. The U.S. Army was so unprepared for any conflict that it was training with broomsticks for machine guns and sacks of flour for mortar fire.

In the wake of Pearl Harbor, the country was in shock and fearful of attack. Guns were placed on top of Washington, DC, buildings and Army units in American cities were put on alert to be on the lookout for enemy planes. However, President Roosevelt's confidence in the face of adversity was contagious. He called on the country to put down everything and concentrate on beating the enemy. Millions of men enlisted to defend freedom. Roosevelt mobilized the country to make weapons of war at levels that many critics called unrealistic. Women flocked into the workplace at unprecedented levels to fill the labor shortage. On the homefront, everything from Sunday automobile drives to meat and butter were sacrificed to provide for the men on the front lines. The greatest sacrifice among the many sacrifices which America gave for the war effort was the loss of many lives among a generation of the country's finest young men and women.

Roosevelt kept the country updated on the war effort through his fireside chats. They were so popular that stores ran out of world maps because so many citizens were following along with the President at home. The President had a unique ability to convey to the American people the seriousness and grave nature of the situation that America found itself in, while at the same time showing unqualified confidence in the American people to get the job done.

One cannot properly speak of Franklin Roosevelt without considerable mention of his wife Eleanor. When President Roosevelt was struck with polio, Eleanor Roosevelt represented him in places that he could not reach. She toured the country and reported back to her husband on what she had heard. She was one of his closest and most trusted advisers.

While not an adviser, the Roosevelt's dog, Fala, provided companionship for the President in very difficult times. It was reported that the President was rarely seen without the dog trailing close behind. Even the Roosevelt dog was not immune from political attacks, however. Following one such attack, Roosevelt remarked, "Well, of course, I don't resent attacks, and my family doesn't resent attacks, but Fala does resent them—his Scotch soul was furious. * * * He has not been the same dog since."

Roosevelt was elected President in 1932 at the depth of the Great Depression and he died while serving as President in April 1945, shortly before the surrender of Germany in World War II. During those years, the world underwent a tidal change, which touched the lives of everyone then and since. It is the ultimate testament to President Roosevelt that he was reelected an unprecedented three times during such a turbulent era, proving both his effectiveness and immense popularity.

In fighting the Depression, he was able to use the Federal Government as an effective tool in getting people working again. Through the U.S. victory in World War II, Roosevelt positioned the United States in a leadership position in world affairs that has lasted for over 50 years. We continue to reap the benefits of his leadership today.

Yesterday, October 1, 1996, marked the first day of Franklin Delano Roosevelt History Month. During the next month, the life and times of Franklin and Eleanor Roosevelt will be celebrated across the country through symposia, exhibitions, and documentaries. I encourage everyone to take part in observing the contributions FDR made to our Nation.•

THE REMARKABLE SAGA OF SIGMUND NISSENBAUM

• Mr. MOYNIHAN. Mr. President, I rise today to share with my colleagues the inspiring story of Sigmund Nissenbaum of Warsaw, Poland, which was brought to my attention by a group of distinguished American Rabbis—headed by Grand Rabbi Shmuel Teitelbaum and Rabbi Hertz Frankel of Brooklyn—who recently returned from Poland where they helped rededicate three historic Jewish cemeteries which had been almost completely destroyed by 50 years of neglect and vandalism.

Sigmund Nissenbaum, a survivor of the Warsaw Ghetto uprising, has devoted his life to keeping alive and protecting the one-glorious Jewish heritage of Poland. For almost 1,000 years before 1939, Poland had the world's largest Jewish population. The vast majority of Poland's 3 million Jews were killed by the Nazis, and most of the survivors were driven into exile by the post-war Communist regime. During these trying days, Sigmund Nissenbaum—often almost singlehandedly—battled against overwhelming odds to protect Poland's Jewish cemeteries.

The collapse of the Communist government in 1989 allowed Mr. Nissenbaum to solicit support for his endeavors from Jews residing in the United States and Israel, leading to the creation of the Nissenbaum Foundation. For the past 7 years, this foundation has institutionalized the life work of Sigmund Nissenbaum, erecting memorials to the victims of the Holocaust in several Polish cities and restoring over a dozen historic cemeteries.

Rabbi Hertz Frankel reports that he has:

> . . . personally observed Mr. Nissenbaum gathering skeletons from cemeteries which had been trampled by hooligans. His compassion, care and conscience are an inspiration to Jews throughout the world, and to Polish non-Jews as well. The current Polish government and Catholic Church leaders have noted his historic role in helping to restore a measure of dignity to the final resting place of so many of his people.

I know I speak for the entire Senate when I congratulate Sigmund Nissenbaum, who recently celebrated his 70th birthday, and wish him many more years of success in his life's sacred work.•

CHEMICAL WEAPONS CONVENTION

• Mr. SARBANES. Mr. President, last week marked the 35th anniversary of the U.S. Arms Control and Disarmament Agency, whose purpose is to reduce threats to the United States through arms control, nonproliferation, and disarmament. It is the only agency of its kind in the U.S. Government, or, in fact, the world.

This is a bittersweet anniversary for the agency. On the one hand, it just has witnessed the signing of the Comprehensive Test Ban Treaty in New York. ACDA was at the forefront of advocating and negotiating this treaty, which represents an historic achievement by banning all nuclear explosions worldwide.

On the other hand, however, arms control efforts have just been dealt a great setback by virtue of the Senate's decision not to take up the Chemical Weapons Convention this year. I would like to take this opportunity to express my strong support for the Chemical Weapons Convention [CWC] and my concern over the delay in giving advice and consent to its ratification.

The Chemical Weapons Convention is an unprecedented international agreement designed to eliminate an entire

class of weapons of mass destruction. Unlike earlier protocols which prohibit only the use of chemical weapons, this Convention aims at stopping their production, transfer, and storage by providing incentives to participation, verification of compliance, and penalties for violation. It now has been signed by 160 countries and ratified by 64. The United States is the only G–7 country not to have ratified it. All of our major trading partners have done so. And many of the countries whose adherence is most important will not ratify it if the United States does not.

The CWC has been before the Senate for consideration for nearly 3 years now. During that period, Senators from every relevant committee have had ample opportunity to examine the convention and to address the issues that have been raised in connection with it. The Foreign Relations Committee, for example, has held 8 public hearings and 1 closed hearing, with 31 separate witnesses, along with numerous briefings in open and closed session, since the spring of 1994. The Armed Services Committee has held three hearings on the military implications of the treaty, and additional hearings have been held in the Intelligence Committee, the Governmental Affairs Committee, and, more recently, the Judiciary Committee. On April 25, 1996, the Foreign Relations Committee reported a bipartisan resolution of ratification, addressing all the major issues that were raised during the course of consideration of the convention.

This treaty will not make the threat of chemical weapons automatically disappear from the face of the earth. But it will constrain the proliferation of chemical weapons, it will establish international norms and standards against them, and it will make it harder for rogue regimes and terrorists to gain access to them. It will deter covert chemical weapons programs by making them much more difficult and expensive—legally, morally, and financially—to maintain. There is currently no legal regime prohibiting the development, production, storage, and transfer of chemical weapons, and therefore no legal basis on which to challenge chemical weapons programs.

I believe there are three major reasons why this treaty will serve American interests, and why a failure to ratify it could have devastating repercussions.

First, the CWC requires others to join us in doing something we already plan to do. As a matter of U.S. policy we have already decided to destroy our current stockpile of chemical weapons. There is a provision in law, first signed by President Reagan, that we eliminate our chemical weapons by the year 2004. We are going to do that regardless of what happens with this treaty, because we think that is a wise thing to do. The leaders of our military services have agreed that we can effectively deter the use of chemical weapons without threatening retaliation in kind. In short, we don't need chemical weapons and we don't want them.

The value of this treaty is that it brings along many other countries in agreeing to do the same thing. So rather than taking a unilateral action, we will be establishing a basis for others to take similar action. As Lt. Gen. Wesley Clark, Director of Strategic Plans and Policy in the Office of the Chairman of the Joint Chiefs, told the Foreign Relations Committee:

> The convention's imposition of an internationally recognizable obligation to destroy all chemical weapons essentially places all other CW capable state parties on an equal footing with the United States. Because of the convention's trade restrictions and provisions, proliferators outside the convention will find it increasingly more difficult to acquire the chemical precursors essential to building a chemical weapons stockpile.

Similarly, Stanley Weiss, chairman of Business Executives for National Security, wrote in the Washington Times:

> Without the treaty, the United States can only act unilaterally against nations like China, believed to be assisting Iran to develop chemical weapons. With the CWC in force, those countries who do business with rogue nations run the risk of being cut from nearly every trading nation on the planet.

The second major reason this treaty is in our interests is because it will provide us with better information about what other countries are doing in the area of chemical weapons. We know that the verification regime in this treaty is not perfect. There will probably be countries or agencies that will cheat on this agreement, and there are others who may not sign it. But if we are party to the treaty, we will have an opportunity to investigate and inspect potential violations. We will have access to information about what those countries are doing. In fact, Secretary of Defense Perry argued:

> . . .while we recognize that detecting illicit production of small quantities of CW will be extremely difficult, we also recognize that would be even more difficult without a CWC. In fact, the CWC verification regime, through its declaration, routine inspection, fact-finding, consultation and challenge inspections, should prove effective in providing a wealth of information on possible CW programs that simply would not be available without the convention.

Likewise, then-CIA Director James Woolsey noted that "We will know more about the state of chemical warfare preparations in the world with the treaty than we would know without it."

The point is that we are going to have to monitor potential violations in either case. Regardless of whether there is a treaty or not, regardless of whether we ratify it or not, our intelligence agencies will need to collect information about chemical weapons production and possession by other countries. But if we participate in the Convention, we will have more avenues to learn about those violations, and we will have an opportunity that we otherwise would not have to conduct challenge inspections.

Moreover, any violations that are discovered will be made known to the world and receive universal condemnation. The treaty in effect creates an international mechanism for identifying and exposing violators. As Secretary of State Christopher pointed out to the Foreign Relations Committee, "By ratifying the Convention, we will add the force and weight of the entire international community to our efforts to assure the destruction of Russian chemical stocks. Our action will also spur other nations such as China to ratify and join the regime." An op-ed by Amy Smithson in the Baltimore Sun last year noted that "the Senate's consent to ratification of the CWC would help open Russian storage sites to international scrutiny, allowing inspectors to inventory and secure these weapons. If the Senate ratifies the treaty, which will ban the development, production, stockpiling and use of chemical weapons, pressure will increase for Russia to do the same."

Third, a failure to ratify would put U.S. interests at a distinct disadvantage. If the CWC enters into force without us, then U.S. chemical manufacturers will immediately find themselves under economic sanctions. They will immediately have to obtain end-user certificates for the sale of certain chemicals abroad, and after 3 years they will not be able to export them at all. Indeed, a letter signed by the CEO's of 53 of the largest chemical firms in the country warns as follows:

> Our industry's status as the world's preferred supplier of chemical products may be jeopardized if the U.S. does not ratify the Convention. If the Senate does not vote in favor of the CWC, we stand to lose hundreds of millions of dollars in overseas sales, putting at risk thousands of good-paying American jobs.

So the consequences of not approving the treaty will be very considerable both on U.S. industry and for our overall national interests. Unfortunately, this appears to be a situation in which partisan political considerations have played an important role. On this point, I ask that three editorials, from the Washington Post, the New York Times, and the Baltimore Sun, be inserted in the RECORD at the conclusion of my remarks.

Some of the arguments that have been made against this treaty are very difficult to follow. On the one hand, opponents have argued that it does not allow anytime, anywhere inspections, and thus that some violations might go undetected. But it was the Bush administration that decided, as a matter of protecting U.S. national interests, that we did not want to have anytime, anywhere inspections because that would jeopardize our trade secrets and national security, and possibly violate

constitutional rights. So it was the United States, under a Republican administration, that decided not to include unrestricted inspections.

On the other hand, opponents contend that the treaty is too intrusive and allows international investigators too much latitude in inspecting U.S. facilities. I find this argument surprising when the chemical manufacturers themselves are strongly supporting this treaty. In the letter that I cited earlier, the CEO's state:

Our industry participated in negotiating the agreement and in U.S. and international implementation efforts. The treaty contains substantial protections for confidential business information (CBI). We know, because industry helped to draft the CBI provisions. Chemical companies also helped test the draft CWC reporting system, and we tested the on-site inspection procedures that will help verify compliance with the treaty. In short, our industry has thoroughly examined and tested this Convention. We have concluded that the benefits of the CWC far outweigh the costs.

How can it be argued that the inspections regime is too rigorous, and at the very same time that it is not rigorous enough? Both the Bush administration and the Clinton administration, after thorough review, have concluded that the balance obtained in this treaty is fair and reasonable. As former President Bush wrote in a letter to Senators PELL and LUGAR in July 1994:

The United States worked hard to ensure that the Convention could be effectively verified. At the same time, we sought the means to protect both United States security interests and commercial capabilities. I am convinced that the Convention we signed served both objectives, effectively banning chemical weapons without creating an unnecessary burden on legitimate activities.

Mr. President, this is a Convention that was negotiated and signed by Republican administrations and has received broad bipartisan support. We have heard testimony from the Pentagon and the Joint Chiefs of Staff about the importance of this treaty to U.S. national interests. Gen. John Shalikashvili testified that "from a military perspective, the Chemical Weapons Convention is clearly in our national interest." Secretary of Defense William J. Perry, along with Attorney General Janet Reno, wrote in a recent op-ed for the Washington Post:

The case for ratification is compelling on both military and law enforcement grounds. . . . Destroying existing chemical weapons and preventing potential enemies from obtaining them will unmistakably strengthen America's defense, which is why both Presidents Reagan and Bush, together with America's military leaders, have strongly supported the conclusion of such a treaty. . . .By moving forward on the Chemical Weapons Convention, the United States also will greatly improve its law enforcement capabilities for investigating and prosecuting those who plan chemical-weapons attacks. . . . To increase the battlefield safety of our troops and fight terror here and around the globe, the Senate should ratify the Chemical Weapons Convention now.

I think it is unfortunate that the treaty has been deferred until next year. Here we had an opportunity to move forward on an agreement that clearly would promote American interests, increase American security, and preserve American leadership. I regret that was not done, and I urge that it be taken up promptly in the next Congress.

The articles follow:

[From the Washington Post, Sept. 15, 1996]

TREATY TURNABOUT

For the better part of a decade Sen. Robert Dole was a part of the legion of Republicans, including Ronald Reagan, George Bush, James Baker, Brent Scowcroft, Colin Powell and Richard Lugar, who supported writing a treaty to outlaw poison gas. Last week, on the eve of a Senate vote on ratification, Mr. Dole indicated that he had changed his mind and joined the opposition to the treaty of his former Senate colleagues Trent Lott, Jesse Helms, Jon Kyl and others.

It is hard to believe the political campaign had nothing to do with the candidate's flip-flop, although Mr. Dole does cite reasons. He suggests he had reservations about the treaty's coverage—the rogue states that are its prime target will surely reject it—and about its enforceability, which under the best of circumstances will not be foolproof. Others who are not running for office have also cited these views, but we think there are strong arguments against them. The treaty does not immediately reach the rogues, but it does create a legal and political framework in which they can be better isolated and pursued. The implicit opposition alternative of a treaty with full coverage simply does not exist. Again, enforcement will not be total under this treaty, but here is a case where the best is the enemy of the good. Enforcement will be better than it is without a treaty, and practice can make it better still.

Mr. Dole cites the situation of American chemical companies which, he believes, would suffer under unacceptably intrusive inspection obligations. But the companies themselves have greeted the treaty as a welcome and bearable liberation of their exports from the onus of contributing to rogue chemical stocks. The former majority leader seems unaware that the "unilateral chemical disarmament" that he now opposes was begun by President Reagan. The American military does not want a weapon that is irrelevant to deterrence and more dangerous to handle than any conceivable battlefield benefit warrants.

The treaty has been pulled, not killed. In other political circumstances, it can be sent back up to the Senate. But meanwhile, the ratifications of other states will bring it into effect. As a result, the American government will be frozen out of the treaty's initial application—this can only warm the poison gas crowd—and the American chemical industry will risk a cutoff of tens of billions of dollars in exports. We don't believe that's in the United States' national interest or Mr. Dole's, for that matter.

[From the New York Times, Sept. 15, 1996]

MR. DOLE BUMPS A GOOD TREATY

It is not uncommon for election-year politics to contaminate Congressional lawmaking, but a vitally important international treaty should not be cynically sacrificed for political advantage. That is what happened last week when Bob Dole reached back into the Senate to block the expected approval of an agreement banning the development, production, stockpiling, sale and use of chemical weapons.

In so doing, Mr. Dole derailed a treaty negotiated by the Administrations of his Republican brethren Ronald Reagan and George Bush, and supported by Republicans and Democrats. Though Mr. Dole offered many policy objections, the real point was to pick a fight with President Clinton and deny him the afterglow of a diplomatic achievement.

As the Senate vote approached last week, Mr. Dole, who had not previously opposed the agreement, chimed in with a letter to the majority leader, Trent Lott, urging that approval be withheld until the accord had been accepted by virtually every other country in the world and there was assurance that even the smallest violations could be detected. Fearing they could no longer count on the 67 votes needed for approval, treaty sponsors pulled the measure, dooming it in this Congress. It can be brought back for a vote next year.

No treaty can absolutely prevent terrorists and other outlaws from smuggling small quantities of chemical weapons. But the Chemical Weapons Convention, already signed by 160 nations and ratified by 63, could make it much harder for countries like Iraq, or criminals like the group that unleashed lethal sarin gas in the Tokyo subways last year, to obtain toxic chemicals or their ingredients.

American military leaders, responsible politicians of both parties and the American chemical industry all favor the treaty.

The convention, including its verification system and severe restrictions on chemical purchases from countries that have not ratified, is now likely to go into effect without the United States, potentially costing the American chemical industry billions of dollars in lost exports.

Mr. Dole complained that the convention imposed intrusive paperwork on American industry and risked the trade secrets of American chemical manufacturers. But the agreement's inspection and paperwork provisions were negotiated in close cooperation with the chemical industry.

The United States is already destroying most of its own chemical weapons arsenal, and current Pentagon doctrine excludes the use of these weapons even in response to a chemical attack.

Mr. Dole's new scorched-earth strategy in Congress was not limited to the chemical weapons treaty. To insure that the President cannot claim credit for enactment of an immigration bill this year, Mr. Dole is now pressing to give states the right to deny a public education to the children of illegal immigrants. He knows that provision would lead either to defeat the bill in the Senate or to a Clinton veto.

At least this particular maneuver would do little harm since the immigration bill is filled with other unacceptable provisions. But imperiling the Chemical Weapons Convention is trifling with the national interest. It is a measure of his desperation that Mr. Dole would seek to stir his becalmed campaign by blocking such an important and beneficial treaty.

[From the Baltimore Sun, Sept. 14, 1996]

DOLE'S RE-ENTRY INTO SENATE AFFAIRS

So great is the Republican impulse to deny President Clinton bill-signing ceremonies before the November election that his opponent, Bob Dole, has slipped into a negative posture that strikes us as dumb politics. Acting somewhat as Senate majority leader

in absentia, Citizen Dole has used his influence with some former colleagues to ditch two key pieces of legislation—a wide-ranging reform of immigration laws and ratification of a Chemical Weapons Convention crafted during the Bush administration.

Both measures are believed to have fairly wide public support. Both are now in coma due to poison pill amendments prescribed by Mr. Dole. One can only hope that after election passions wane, wiser counsels will prevail.

The roadblock on immigration reform is due to a Dole-backed amendment that would allow states to deny public schooling to children of illegal immigrants. "I can't believe they are doing this," lamented Sen. Alan Simpson, R-Wyo., an ally of the GOP nominee for president.

The treaty dealing with poison gas was put on the back burner after the Clinton administration spurned killer amendments that would have prevented its implementation until Iraq, Libya and North Korea ratify it, thus giving these rogue states veto power. Another Republican, Sen. Richard Lugar of Indiana, said the whole process has been "politicized" in ways harmful to U.S. foreign policy.

The Chemical Manufacturers Association, fearful of setbacks in international trade, complained that treaty opponents have "disfigured and distorted [it] beyond recognition." But hard-line unilateralists, such as Sens. Jesse Helms and Jon Kyl, contend that international controls under the convention would add to the costs of small chemical companies.

It is a shame that a treaty aimed at reducing stockpiles of mustard gas, nerve agents and other deadly chemicals has fallen victim to U.S. domestic politics. This country was its foremost advocate, not least because an estimated 30,000 tons of Russian chemical weapons are vulnerable to theft and misuse by terrorists and pariah governments. Now Moscow can continue to abstain. Now the votes of only a handful of foreign nations can put the treaty into effect without U.S. participation.

Just as the U.S. needs to control immigration, so it needs to play a leading role in policing a treaty that would ban manufacture as well as use of chemical weaponry. Once the election is over, both issues require resurrection.•

INTERNATIONAL FAMILY PLANNING ASSISTANCE

• Mr. LEAHY. Mr. President, the Senate version of the Foreign Operations bill included my amendment to provide $410 million for international family planning assistance, an increase of $54 million above last year's level. That amendment also deleted a House provision which would have penalized private organizations that use their own funds for abortions, even where abortion is legal.

This is the remaining issue to be decided in the conference on this bill, and it is now in the hands of the White House and the House and Senate leadership. I appreciate the White House's support for my position. This is an issue of critical importance to the welfare of hundreds of millions of women around the world, especially in poor countries where family planning services are often lacking or inadequate.

Last year, after going back and forth with the House several times on this same issue, the House sent us a provision that resulted in a drastic cut in funding for family planning. Chairman HATFIELD, who has consistently voted pro-life, opposed that provision, as did I, because it cut family planning services to millions of women with the inevitable result that there would be an increase in unwanted pregnancies and abortions.

But the House recessed immediately after, and in order to avoid another Government shutdown the Senate reluctantly acquiesced in the House provision. I, and I know others feel likewise, do not want to see a repeat of that fiasco.

This year, the House included a provision which not only continues the one-third cut in funding for family planning, but it also included a version of the Mexico City policy by imposing restrictions on what private organizations can do with their own money in order to receive U.S. Government funds.

Why we would want to do that when there are hundreds of millions of people who want family planning services but cannot get it, and the world is struggling with the enormous pressures of over a billion people living in poverty already, is beyond me.

I understand the herculean efforts that Congressman CALLAHAN and others on the House side have made to try to resolve this matter in a way that does not damage the Agency for International Development's family planning program. I also greatly appreciate the tireless efforts of Senator HATFIELD, who has tried every conceivable approach to reconcile the House and Senate provisions.

However, I urge the administration to stand firmly on the side of women, on unrestricted access to family planning, and on the right of private organizations to use their funds as they see fit—including for abortions, consistent with the laws of the countries where they operate. At a time when the world's population will double in the next 50 years and 90 percent of the new births will occur in countries that cannot even feed and care for their own people today, there is no more pressing issue for American leadership.•

GLENORA G. ROLAND

• Mr. LEVIN. Mr. President, I rise today to honor Glenora G. Roland of Flint, MI, who is celebrating 50 years of community service. Ms. Roland moved to Flint with her family in 1936.

Ms. Roland has always been a leader in the revitalization of the Flint community. In 1977, Glenora joined several other committed members of the community to found the Flint neighborhood improvement and preservation project, and the Flint neighborhood coalition. These two organizations have contributed greatly to the rebuilding and strengthening of the community. Ms. Roland served as the Flint NIPP's first secretary, as well as naming the organization. She has also served as the executive director of the Flint neighborhood coalition. The coalition's mission is "to reverse neighborhood decay by teaching residents to be self-sufficient."

I know my Senate colleagues join me in honoring Glenora G. Roland on her 50 years of service to the Flint community and Michigan.•

NOTE

Page 25429 of the RECORD of September 27, 1996, shows an incorrect headline and bill title for H.R. 1014, a bill to authorize extension of time limitation for a FERC-issued hydroelectric license. The permanent RECORD has been corrected accordingly.

ECONOMIC ESPIONAGE ACT OF 1996

Mr. NICKLES. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on (H.R. 3723) the bill to amend title 18, United States Code, to protect proprietary economic information, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 3723) entitled "An Act to amend title 18, United States Code, to protect proprietary economic information, and for other purposes", with the following House amendment to senate amendment:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Espionage Act of 1996".

TITLE I—PROTECTION OF TRADE SECRETS

SEC. 101. PROTECTION OF TRADE SECRETS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 89 the following:

"CHAPTER 90—PROTECTION OF TRADE SECRETS

"Sec.
"1831. Economic espionage.
"1832. Theft of trade secrets.
"1833. Exceptions to prohibitions.
"1834. Criminal forfeiture.
"1835. Orders to preserve confidentiality.
"1836. Civil proceedings to enjoin violations.
"1837. Conduct outside the United States.
"1838. Construction with other laws.
"1839. Definitions.

"§1831. Economic espionage

"(a) IN GENERAL.—Whoever, intending or knowing that the offense will benefit any foreign government, foreign instrumentality, or foreign agent, knowingly—

"(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains a trade secret;

"(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys a trade secret;

"(3) receives, buys, or possesses a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

"(4) attempts to commit any offense described in any of paragraphs (1) through (3); or

"(5) conspires with one or more other persons to commit any offense described in any of paragraphs (1) through (4), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined not more than $500,000 or imprisoned not more than 15 years, or both.

"(b) ORGANIZATIONS.—Any organization that commits any offense described in subsection (a) shall be fined not more than $10,000,000.

"§1832. Theft of trade secrets

"(a) Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly—

"(1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information;

"(2) without authorization copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys such information;

"(3) receives, buys, or possesses such information, knowing the same to have been stolen or appropriated, obtained, or converted without authorization;

"(4) attempts to commit any offense described in paragraphs (1) through (3); or

"(5) conspires with one or more other persons to commit any offense described in paragraphs (1) through (3), and one or more of such persons do any act to effect the object of the conspiracy,

shall, except as provided in subsection (b), be fined under this title or imprisoned not more than 10 years, or both.

"(b) Any organization that commits any offense described in subsection (a) shall be fined not more than $5,000,000.

"§1833. Exceptions to prohibitions

"This chapter does not prohibit—

"(1) any otherwise lawful activity conducted by a governmental entity of the United States, a State, or a political subdivision of a State; or

"(2) the reporting of a suspected violation of law to any governmental entity of the United States, a State, or a political subdivision of a State, if such entity has lawful authority with respect to that violation.

"§1834. Criminal forfeiture

"(a) The court, in imposing sentence on a person for a violation of this chapter, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

"(2) any of the person's property used, or intended to be used, in any manner or part, to commit or facilitate the commission of such violation, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

"(b) Property subject to forfeiture under this section, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except for subsections (d) and (j) of such section, which shall not apply to forfeitures under this section.

"§1835. Orders to preserve confidentiality

"In any prosecution or other proceeding under this chapter, the court shall enter such orders and take such other action as may be necessary and appropriate to preserve the confidentiality of trade secrets, consistent with the requirements of the Federal Rules of Criminal and Civil Procedure, the Federal Rules of Evidence, and all other applicable laws. An interlocutory appeal by the United States shall lie from a decision or order of a district court authorizing or directing the disclosure of any trade secret.

"§1836. Civil proceedings to enjoin violations

"(a) The Attorney General may, in a civil action, obtain appropriate injunctive relief against any violation of this section.

"(b) The district courts of the United States shall have exclusive original jurisdiction of civil actions under this subsection.

"§1837. Applicability to conduct outside the United States

"This chapter also applies to conduct occurring outside the United States if—

"(1) the offender is a natural person who is a citizen or permanent resident alien of the United States, or an organization organized under the laws of the United States or a State or political subdivision thereof; or

"(2) an act in furtherance of the offense was committed in the United States.

"§1838. Construction with other laws

"This chapter shall not be construed to preempt or displace any other remedies, whether civil or criminal, provided by United States Federal, State, commonwealth, possession, or territory law for the misappropriation of a trade secret, or to affect the otherwise lawful disclosure of information by any Government employee under section 552 of title 5 (commonly known as the Freedom of Information Act).

"§1839. Definitions

"As used in this chapter—

"(1) the term 'foreign instrumentality' means any agency, bureau, ministry, component, institution, association, or any legal, commercial, or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government;

"(2) the term 'foreign agent' means any officer, employee, proxy, servant, delegate, or representative of a foreign government;

"(3) the term 'trade secret' means all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if—

"(A) the owner thereof has taken reasonable measures to keep such information secret; and

"(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public; and

"(4) the term 'owner', with respect to a trade secret, means the person or entity in whom or in which rightful legal or equitable title to, or license in, the trade secret is reposed.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning part I of title 18, United States Code, is amended by inserting after the item relating to chapter 89 the following:

(c) REPORTS.—Not later than 2 years and 4 years after the date of the enactment of this Act, the Attorney General shall report to Congress on the amounts received and distributed from fines for offenses under this chapter deposited in the Crime Victims Fund established by section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601).

"90. Protection of trade secrets 1831

SEC. 102. WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS.

Section 2516(1)(c) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "chapter 37 (relating to espionage),".

TITLE II—NATIONAL INFORMATION INFRASTRUCTURE PROTECTION ACT OF 1996.

SEC. 201. COMPUTER CRIME.

Section 1030 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking "knowingly accesses" and inserting "having knowingly accessed";

(ii) by striking "exceeds" and inserting "exceeding";

(iii) by striking "obtains information" and inserting "having obtained information";

(iv) by striking "the intent or";

(v) by striking "is to be used" and inserting "could be used"; and

(vi) by inserting before the semicolon at the end the following: "willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it";

(B) in paragraph (2)—

(i) by striking "obtains information" and inserting "obtains—

"(A) information"; and

(ii) by adding at the end the following new subparagraphs:

"(B) information from any department or agency of the United States; or

"(C) information from any protected computer if the conduct involved an interstate or foreign communication;";

(C) in paragraph (3)—

(i) by inserting "nonpublic" before "computer of a department or agency";

(ii) by striking "adversely"; and

(iii) by striking "the use of the Government's operation of such computer" and inserting "that use by or for the Government of the United States";

(D) in paragraph (4)—

(i) by striking "Federal interest" and inserting "protected"; and

(ii) by inserting before the semicolon the following: "and the value of such use is not more than $5,000 in any 1-year period";

(E) by striking paragraph (5) and inserting the following:

"(5)(A) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

"(B) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

"(C) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage;"; and

(F) by inserting after paragraph (6) the following new paragraph:

"(7) with intent to extort from any person, firm, association, educational institution, financial institution, government entity, or other legal entity, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;";

(2) in subsection (c)—

(A) in paragraph (1), by striking "such subsection" each place that term appears and inserting "this section";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ", (a)(5)(C)," after "(a)(3)"; and

(II) by striking "such subsection" and inserting "this section";

(ii) by redesignating subparagraph (B) as subparagraph (C);

(iii) by inserting immediately after subparagraph (A) the following:

"(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), if—

"(i) the offense was committed for purposes of commercial advantage or private financial gain;

"(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

"(iii) the value of the information obtained exceeds $5,000;"; and

(iv) in subparagraph (C) (as redesignated)—

(I) by striking "such subsection" and inserting "this section"; and

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

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "(a)(4) or (a)(5)(A)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(ii) in subparagraph (B)—

(I) by striking "(a)(4) or (a)(5)" and inserting "(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)"; and

(II) by striking "such subsection" and inserting "this section"; and

(D) by striking paragraph (4);

(3) in subsection (d), by inserting "subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of" before "this section.";

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by striking "Federal interest" and inserting "protected";

(ii) in subparagraph (A), by striking "the use of the financial institution's operation or the Government's operation of such computer" and inserting "that use by or for the financial institution or the Government"; and

(iii) by striking subparagraph (B) and inserting the following:

"(B) which is used in interstate or foreign commerce or communication;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(8) the term 'damage' means any impairment to the integrity or availability of data, a program, a system, or information, that—

"(A) causes loss aggregating at least $5,000 in value during any 1-year period to one or more individuals;

"(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

"(C) causes physical injury to any person; or

"(D) threatens public health or safety; and

"(9) the term 'government entity' includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country."; and

(5) in subsection (g)—

(A) by striking ", other than a violation of subsection (a)(5)(B),"; and

(B) by striking "of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)" and inserting "involving damage as defined in subsection (e)(8)(A)".

TITLE III—TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY

SEC. 301. TRANSFER OF PERSONS FOUND NOT GUILTY BY REASON OF INSANITY.

(a) AMENDMENT OF SECTION 4243 OF TITLE 18.—Section 4243 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) CERTAIN PERSONS FOUND NOT GUILTY BY REASON OF INSANITY IN THE DISTRICT OF COLUMBIA.—

"(1) TRANSFER TO CUSTODY OF THE ATTORNEY GENERAL.—Notwithstanding section 301(h) of title 24 of the District of Columbia Code, and notwithstanding subsection 4247(j) of this title, all persons who have been committed to a hospital for the mentally ill pursuant to section 301(d)(1) of title 24 of the District of Columbia Code, and for whom the United States has continuing financial responsibility, may be transferred to the custody of the Attorney General, who shall hospitalize the person for treatment in a suitable facility.

"(2) APPLICATION.—

"(A) IN GENERAL.—The Attorney General may establish custody over such persons by filing an application in the United States District Court for the District of Columbia, demonstrating that the person to be transferred is a person described in this subsection.

"(B) NOTICE.—The Attorney General shall, by any means reasonably designed to do so, provide written notice of the proposed transfer of custody to such person or such person's guardian, legal representative, or other lawful agent. The person to be transferred shall be afforded an opportunity, not to exceed 15 days, to respond to the proposed transfer of custody, and may, at the court's discretion, be afforded a hearing on the proposed transfer of custody. Such hearing, if granted, shall be limited to a determination of whether the constitutional rights of such person would be violated by the proposed transfer of custody.

"(C) ORDER.—Upon application of the Attorney General, the court shall order the person transferred to the custody of the Attorney General, unless, pursuant to a hearing under this paragraph, the court finds that the proposed transfer would violate a right of such person under the United States Constitution.

"(D) EFFECT.—Nothing in this paragraph shall be construed to—

"(i) create in any person a liberty interest in being granted a hearing or notice on any matter;

"(ii) create in favor of any person a cause of action against the United States or any officer or employee of the United States; or

"(iii) limit in any manner or degree the ability of the Attorney General to move, transfer, or otherwise manage any person committed to the custody of the Attorney General.

"(3) CONSTRUCTION WITH OTHER SECTIONS.—Subsections (f) and (g) and section 4247 shall apply to any person transferred to the custody of the Attorney General pursuant to this subsection.".

(b) TRANSFER OF RECORDS.—Notwithstanding any provision of the District of Columbia Code or any other provision of law, the District of Columbia and St. Elizabeth's Hospital—

(1) not later than 30 days after the date of enactment of this Act, shall provide to the Attorney General copies of all records in the custody or control of the District or the Hospital on such date of enactment pertaining to persons described in section 4243(i) of title 18, United States Code (as added by subsection (a));

(2) not later than 30 days after the creation of any records by employees, agents, or contractors of the District of Columbia or of St. Elizabeth's Hospital pertaining to persons described in section 4243(i) of title 18, United States Code, provide to the Attorney General copies of all such records created after the date of enactment of this Act;

(3) shall not prevent or impede any employee, agent, or contractor of the District of Columbia or of St. Elizabeth's Hospital who has obtained knowledge of the persons described in section 4243(i) of title 18, United States Code, in the employee's professional capacity from providing that knowledge to the Attorney General, nor shall civil or criminal liability attach to such employees, agents, or contractors who provide such knowledge; and

(4) shall not prevent or impede interviews of persons described in section 4243(i) of title 18, United States Code, by representatives of the Attorney General, if such persons voluntarily consent to such interviews.

(c) CLARIFICATION OF EFFECT ON CERTAIN TESTIMONIAL PRIVILEGES.—The amendments made by this section shall not be construed to affect in any manner any doctor-patient or psychotherapist-patient testimonial privilege that may be otherwise applicable to persons found not guilty by reason of insanity and affected by this section.

(d) SEVERABILITY.—If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section shall not be affected thereby.

TITLE IV—ESTABLISHMENT OF BOYS AND GIRLS CLUBS.

SEC. 401. ESTABLISHING BOYS AND GIRLS CLUBS.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Boys and Girls Clubs of America, chartered by an Act of Congress on December 10, 1991, during its 90-year history as a national organization, has proven itself as a positive force in the communities it serves;

(B) there are 1,810 Boys and Girls Clubs facilities throughout the United States, Puerto Rico, and the United States Virgin Islands, serving 2,420,000 youths nationwide;

(C) 71 percent of the young people who benefit from Boys and Girls Clubs programs live in our inner cities and urban areas;

(D) Boys and Girls Clubs are locally run and have been exceptionally successful in balancing public funds with private sector donations and maximizing community involvement;

(E) Boys and Girls Clubs are located in 289 public housing sites across the Nation;

(F) public housing projects in which there is an active Boys and Girls Club have experienced a 25 percent reduction in the presence of crack cocaine, a 22 percent reduction in overall drug activity, and a 13 percent reduction in juvenile crime;

(G) these results have been achieved in the face of national trends in which overall drug use by youth has increased 105 percent since 1992 and 10.9 percent of the Nation's young people use drugs on a monthly basis; and

(H) many public housing projects and other distressed areas are still underserved by Boys and Girls Clubs.

(2) PURPOSE.—It is the purpose of this section to provide adequate resources in the form of seed money for the Boys and Girls Clubs of America to establish 1,000 additional local Boys and Girls Clubs in public housing projects and other distressed areas by 2001.

(b) DEFINITIONS.—For purposes of this section—

(1) the terms "public housing" and "project" have the same meanings as in section 3(b) of the United States Housing Act of 1937; and

(2) the term "distressed area" means an urban, suburban, or rural area with a high percentage of high risk youth as defined in section 509A of the Public Health Service Act (42 U.S.C. 290aa–8(f)).

(c) ESTABLISHMENT.—

(1) IN GENERAL.—For each of the fiscal years 1997, 1998, 1999, 2000, and 2001, the Director of the Bureau of Justice Assistance of the Department of Justice shall provide a grant to the Boys and Girls Clubs of America for the purpose of establishing Boys and Girls Clubs in public housing projects and other distressed areas.

(2) CONTRACTING AUTHORITY.—Where appropriate, the Secretary of Housing and Urban Development, in consultation with the Attorney General, shall enter into contracts with the Boys and Girls Clubs of America to establish clubs pursuant to the grants under paragraph (1).

(d) REPORT.—Not later than May 1 of each fiscal year for which amounts are made available to carry out this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report that details the progress made under this Act in establishing Boys and Girls Clubs in public housing projects and other distressed areas, and the effectiveness of the programs in reducing drug abuse and juvenile crime.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) $20,000,000 for fiscal year 1997;

(B) $20,000,000 for fiscal year 1998;

(C) $20,000,000 for fiscal year 1999;

(D) $20,000,000 for fiscal year 2000; and

(E) $20,000,000 for fiscal year 2001.

(2) VIOLENT CRIME REDUCTION TRUST FUND.—The sums authorized to be appropriated by this subsection may be made from the Violent Crime Reduction Trust Fund.

TITLE V—USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT

SEC. 501. USE OF CERTAIN TECHNOLOGY TO FACILITATE CRIMINAL CONDUCT.

(a) INFORMATION.—The Administrative Office of the United States courts shall establish policies and procedures for the inclusion in all presentence reports of information that specifically identifies and describes any use of encryption or scrambling technology that would be relevant to an enhancement under section 3C1.1 (dealing with Obstructing or Impeding the Administration of Justice) of the Sentencing Guidelines or to offense conduct under the Sentencing Guidelines.

(b) COMPILING AND REPORT.—The United States Sentencing Commission shall—

(1) compile and analyze any information contained in documentation described in subsection (a) relating to the use of encryption or scrambling technology to facilitate or conceal criminal conduct; and

(2) based on the information compiled and analyzed under paragraph (1), annually report to the Congress on the nature and extent of the use of encryption or scrambling technology to facilitate or conceal criminal conduct.

TITLE VI—TECHNICAL AND MINOR AMENDMENTS

SEC. 601. GENERAL TECHNICAL AMENDMENTS.

(a) FURTHER CORRECTIONS TO MISLEADING FINE AMOUNTS AND RELATED TYPOGRAPHICAL ERRORS.—

(1) Sections 152, 153, 154, and 610 of title 18, United States Code, are each amended by striking "fined not more than $5,000" and inserting "fined under this title".

(2) Section 970(b) of title 18, United States Code, is amended by striking "fined not more than $500" and inserting "fined under this title".

(3) Sections 661, 1028(b), 1361, and 2701(b) of title 18, United States Code, are each amended by striking "fine of under" each place it appears and inserting "fine under".

(4) Section 3146(b)(1)(A)(iv) of title 18, United States Code, is amended by striking "a fined under this title" and inserting "a fine under this title".

(5) The section 1118 of title 18, United States Code, that was enacted by Public Law 103–333—

(A) is redesignated as section 1122; and

(B) is amended in subsection (c) by—

(i) inserting "under this title" after "fine"; and

(ii) striking "nor more than $20,000".

(6) The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1122. Protection against the human immunodeficiency virus.".

(7) Sections 1761(a) and 1762(b) of title 18, United States Code, are each amended by striking "fined not more than $50,000" and inserting "fined under this title".

(8) Sections 1821, 1851, 1852, 1853, 1854, 1905, 1916, 1918, 1991, 2115, 2116, 2191, 2192, 2194, 2199, 2234, 2235, and 2236 of title 18, United States Code, are each amended by striking "fined not more than $1,000" each place it appears and inserting "fined under this title".

(9) Section 1917 of title 18, United States Code, is amended by striking "fined not less than $100 nor more than $1,000" and inserting "fined under this title not less than $100".

(10) Section 1920 of title 18, United States Code, is amended—

(A) by striking "of not more than $250,000" and inserting "under this title"; and

(B) by striking "of not more than $100,000" and inserting "under this title".

(11) Section 2076 of title 18, United States Code, is amended by striking "fined not more than $1,000 or imprisoned not more than one year" and inserting "fined under this title or imprisoned not more than one year, or both".

(12) Section 597 of title 18, United States Code, is amended by striking "fined not more than $10,000" and inserting "fined under this title".

(b) CROSS REFERENCE CORRECTIONS AND CORRECTIONS OF TYPOGRAPHICAL ERRORS.—

(1) Section 3286 of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a"; and

(C) by striking "36" and inserting "37".

(2) Section 2339A(b) of title 18, United States Code, is amended—

(A) by striking "2331" and inserting "2332";

(B) by striking "2339" and inserting "2332a";

(C) by striking "36" and inserting "37"; and

(D) by striking "of an escape" and inserting "or an escape".

(3) Section 1961(1)(D) of title 18, United States Code, is amended by striking "that title" and inserting "this title".

(4) Section 2423(b) of title 18, United States Code, is amended by striking "2245" and inserting "2246".

(5) Section 3553(f) of title 18, United States Code, is amended by striking "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 961, 963)" and inserting "section 1010 or 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 960, 963)".

(6) Section 3553(f)(4) of title 18, United States Code, is amended by striking "21 U.S.C. 848" and inserting "section 408 of the Controlled Substances Act".

(7) Section 3592(c)(1) of title 18, United States Code, is amended by striking "2339" and inserting "2332a".

(c) SIMPLIFICATION AND CLARIFICATION OF WORDING.—

(1) The third undesignated paragraph of section 5032 of title 18, United States Code, is amended by inserting "or as authorized under section 3401(g) of this title" after "shall proceed by information".

(2) Section 1120 of title 18, United States Code, is amended by striking "Federal prison" each place it appears and inserting "Federal correctional institution".

(3) Section 247(d) of title 18, United States Code, is amended by striking "notification" and inserting "certification".

(d) CORRECTION OF PARAGRAPH CONNECTORS.—Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (l), by striking "or" after the semicolon; and

(2) in paragraph (n), by striking "and" where it appears after the semicolon and inserting "or".

(e) CORRECTION CAPITALIZATION OF ITEMS IN LIST.—Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking "the" the first place it appears and inserting "The"; and

(2) in paragraph (3), by striking "the" the first place it appears and inserting "The".

(f) CORRECTIONS OF PUNCTUATION AND OTHER ERRONEOUS FORM.—

(1) Section 656 of title 18, United States Code, is amended in the first paragraph by striking "Act,," and inserting "Act,".

(2) Section 1114 of title 18, United States Code, is amended by striking "1112." and inserting "1112,".

(3) Section 504(3) of title 18, United States Code, is amended by striking "importation, of" and inserting "importation of".

(4) Section 3059A(a)(1) of title 18, United States Code, is amended by striking "section 215 225,," and inserting "section 215, 225,".

(5) Section 3125(a) of title 18, United States Code, is amended by striking the close quotation mark at the end.

(6) Section 1956(c)(7)(B)(iii) of title 18, United States Code, is amended by striking "1978)" and inserting "1978".

(7) The item relating to section 656 in the table of sections at the beginning of chapter 31 of title 18, United States Code, is amended by inserting a comma after "embezzlement".

(8) The item relating to section 1024 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by striking "veterans'" and inserting "veteran's".

(9) Section 3182 (including the heading of such section) and the item relating to such section in the table of sections at the beginning of chapter 209, of title 18, United States Code, are each amended by inserting a comma after "District" each place it appears.

(10) The item relating to section 3183 in the table of sections at the beginning of chapter 209 of title 18, United States Code, is amended by inserting a comma after "Territory".

(11) The items relating to section 2155 and 2156 in the table of sections at the beginning of chapter 105 of title 18, United States Code, are each amended by striking "or" and inserting ", or".

*(12) The headings for sections 2155 and 2156 of title 18, United States Code, are each amended by striking "**or**" and inserting "**, or**".*

(13) Section 1508 of title 18, United States Code, is amended by realigning the matter beginning "shall be fined" and ending "one year, or both." so that it is flush to the left margin.

(14) The item relating to section 4082 in the table of sections at the beginning of chapter 305 of title 18, United States Code, is amended by striking "centers," and inserting "centers;".

(15) Section 2101(a) of title 18, United States Code, is amended by striking "(1)" and by redesignating subparagraphs (A) through (D) as paragraphs (1) through (4), respectively.

(16) Section 5038 of title 18, United States Code, is amended by striking "section 841, 952(a), 955, or 959 of title 21" each place it appears and inserting "section 401 of the Controlled Substances Act or section 1001(a), 1005, or 1009 of the Controlled Substances Import and Export Act".

(g) CORRECTIONS OF PROBLEMS ARISING FROM UNCOORDINATED AMENDMENTS.—

(1) SECTION 5032.—The first undesignated paragraph of section 5032 of title 18, United States Code, is amended—

(A) by inserting "section 922(x)" before "or section 924(b)"; and

(B) by striking "or (x)".

(2) STRIKING MATERIAL UNSUCCESSFULLY ATTEMPTED TO BE STRICKEN FROM SECTION 1116 BY PUBLIC LAW 103–322.—Subsection (a) of section 1116 of title 18, United States Code, is amended by striking ", except" and all that follows through the end of such subsection and inserting a period.

(3) ELIMINATION OF DUPLICATE AMENDMENT IN SECTION 1958.—Section 1958(a) of title 18, United States Code, is amended by striking "or who conspires to do so" where it appears following "or who conspires to do so" and inserting a comma.

(h) INSERTION OF MISSING END QUOTE.—Section 80001(a) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting a close quotation mark followed by a period at the end.

(i) REDESIGNATION OF DUPLICATE SECTION NUMBERS AND CONFORMING CLERICAL AMENDMENTS.—

(1) REDESIGNATION.—That section 2258 added to title 18, United States Code, by section 160001(a) of the Violent Crime Control and Law Enforcement Act of 1994 is redesignated as section 2260.

(2) CONFORMING CLERICAL AMENDMENT.—The item in the table of sections at the beginning of chapter 110 of title 18, United States Code, relating to the section redesignated by paragraph (1) is amended by striking "2258" and inserting "2260".

(3) CONFORMING AMENDMENT TO CROSS-REFERENCE.—Section 1961(1)(B) of title 18, United States Code, is amended by striking "2258" and inserting "2260".

(j) REDESIGNATION OF DUPLICATE CHAPTER NUMBER AND CONFORMING CLERICAL AMENDMENT.—

(1) REDESIGNATION.—The chapter 113B added to title 18, United States Code, by Public Law 103–236 is redesignated chapter 113C.

(2) CONFORMING CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code is amended in the item relating to the chapter redesignated by paragraph (1)—

*(A) by striking "**113B**" and inserting "**113C**"; and*

*(B) by striking "**2340.**" and inserting "**2340**".*

(k) REDESIGNATION OF DUPLICATE PARAGRAPH NUMBERS AND CORRECTION OF PLACEMENT OF PARAGRAPHS IN SECTION 3563.—

(1) REDESIGNATION.—Section 3563(a) of title 18, United States Code, is amended by redesignating the second paragraph (4) as paragraph (5).

(2) CONFORMING CONNECTOR CHANGE.—Section 3563(a) of title 18, United States Code, is amended—

(A) by striking "and" at the end of paragraph (3); and

(B) by striking the period at the end of paragraph (4) and inserting "; and".

(3) PLACEMENT CORRECTION.—Section 3563(a) of title 18, United States Code, is amended so that paragraph (4) and the paragraph redesignated as paragraph (5) by this subsection are transferred to appear in numerical order immediately following paragraph (3) of such section 3563(a).

(l) REDESIGNATION OF DUPLICATE PARAGRAPH NUMBERS IN SECTION 1029 AND CONFORMING AMENDMENTS RELATED THERETO.—Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating those paragraphs (5) and (6) which were added by Public Law 103–414 as paragraphs (7) and (8), respectively;

(B) by redesignating paragraph (7) as paragraph (9);

(C) by striking "or" at the end of paragraph (6) and at the end of paragraph (7) as so redesignated by this subsection; and

(D) by inserting "or" at the end of paragraph (8) as so redesignated by this subsection;

(2) in subsection (e), by redesignating the second paragraph (7) as paragraph (8); and

(3) in subsection (c)—

(A) in paragraph (1), by striking "or (7)" and inserting "(7), (8), or (9)"; and

(B) in paragraph (2), by striking "or (6)" and inserting "(6), (7), or (8)".

(m) INSERTION OF MISSING SUBSECTION HEADING.—Section 1791(c) of title 18, United States Code, is amended by inserting after "(c)" the following subsection heading: "CONSECUTIVE PUNISHMENT REQUIRED IN CERTAIN CASES.—".

(n) CORRECTION OF MISSPELLING.—Section 2327(c) of title 18, United States Code, is amended by striking "delegee" each place it appears and inserting "designee".

(o) CORRECTION OF SPELLING AND AGENCY REFERENCE.—Section 5038(f) of title 18, United States Code, is amended—

(1) by striking "juvenille" and inserting "juvenile", and

(2) by striking "the Federal Bureau of Investigation, Identification Division," and inserting "the Federal Bureau of Investigation".

(p) CORRECTING MISPLACED WORD.—Section 1028(a) of title 18, United States Code, is amended by striking "or" at the end of paragraph (4) and inserting "or" at the end of paragraph (5).

(q) STYLISTIC CORRECTION.—Section 37(c) of title 18, United States Code, is amended by inserting after "(c)" the following subsection heading: "BAR TO PROSECUTION.—".

(r) MANDATORY VICTIM RESTITUTION ACT AMENDMENTS.—

(1) ORDER OF RESTITUTION.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by adding at the end the following: "The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.".

(2) FORFEITURE.—Section 3663(c)(4) of title 18, United States Code, is amended by inserting "or chapter 96" after "under chapter 46".

(3) ANIMAL ENTERPRISE TERRORISM.—Section 43(c) of title 18, United States Code, is amended by inserting after "3663" the following: "or 3663A".

(4) SPECIAL ASSESSMENT.—Section 3013(a)(2) of title 18, United States Code, is amended by striking "not less than" each place that term appears.

(s) CLARIFICATIONS TO ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996.—

(1) JURISDICTION.—Section 2332b(b)(1)(A) of title 18, United States Code, is amended by—

(A) striking "any of the offenders uses"; and

(B) inserting "is used" after "foreign commerce".

(2) PROVIDING MATERIAL SUPPORT.—Section 2339A(a) of title 18, United States Code, is amended by inserting "or an escape" after "concealment".

(3) TECHNICAL AMENDMENTS.—Sections 2339A(a) and 2332b(g)(5)(B) of title 18, United States Code, are each amended by inserting at the appropriate place in each section's enumeration of title 18 sections the following: "930(c),", "1992,", and "2332c,".

SEC. 602. REPEAL OF OBSOLETE PROVISIONS IN TITLE 18

(a) SECTION 709 AMENDMENT.—Section 709 of title 18, United States Code, is amended by striking "Whoever uses as a firm or business name the words 'Reconstruction Finance Corporation' or any combination or variation of these words—".

(b) SECTION 1014 AMENDMENT.—Section 1014 of title 18, United States Code, is amended—

(1) by striking "Reconstruction Finance Corporation,";

(2) by striking "Farmers' Home Corporation,"; and

(3) by striking "of the National Agricultural Credit Corporation,".

(c) SECTION 798 AMENDMENT.—Section 798(d)(5) of title 18, United States Code, is amended by striking "the Trust Territory of the Pacific Islands,".

(d) SECTION 281 REPEAL.—Section 281 of title 18, United States Code, is repealed and the table of sections at the beginning of chapter 15 of such title is amended by striking the item relating to such section.

(e) SECTION 510 AMENDMENT.—Section 510(b) of title 18, United States Code, is amended by striking "that in fact" and all that follows through "signature".

SEC. 603. TECHNICAL AMENDMENTS RELATING TO CHAPTERS 40 AND 44 OF TITLE 18.

(a) ELIMINATION OF DOUBLE COMMAS IN SECTION 844.—Section 844 of title 18, United States Code, is amended in subsection (i) by striking ",," each place it appears and inserting a comma.

(b) REPLACEMENT OF COMMA WITH SEMICOLON IN SECTION 922.—Section 922(g)(8)(C)(ii) of title 18, United States Code, is amended by striking the comma at the end and inserting a semicolon.

(c) CLARIFICATION OF AMENDMENT TO SECTION 922.—

(1) AMENDMENT.—Section 320927 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322) is amended by inserting "the first place it appears" before the period.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 320927 of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(d) STYLISTIC CORRECTION TO SECTION 922.—Section 922(t)(2) of title 18, United States Code, is amended by striking "section 922(g)" and inserting "subsection (g)".

(e) ELIMINATION OF UNNECESSARY WORDS.—Section 922(w)(4) of title 18, United States Code, is amended by striking "title 18, United States Code," and inserting "this title".

(f) CLARIFICATION OF PLACEMENT OF PROVISION.—

(1) AMENDMENT.—Section 110201(a) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103–322) is amended by striking "adding at the end" and inserting "inserting after subsection (w)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 110201 of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(g) CORRECTION OF TYPOGRAPHICAL ERRORS IN LIST OF CERTAIN WEAPONS.—Appendix A to section 922 of title 18, United States Code, is amended—

(1) in the category designated

"Centerfire Rifles—Lever & Slide",

by striking

"Uberti 1866 Sporting Rilfe"

and inserting the following:

"Uberti 1866 Sporting Rifle";

(2) in the category designated

"Centerfire Rifles—Bolt Action",

by striking

"Sako Fiberclass Sporter"

and inserting the following:

"Sako FiberClass Sporter";

(3) in the category designated

"Shotguns—Slide Actions",

by striking

"Remington 879 SPS Special Purpose Magnum"

and inserting the following:

"Remington 870 SPS Special Purpose Magnum"; and

(4) in the category designated

"Shotguns—Over/Unders",

by striking

"E.A.A/Sabatti Falcon-Mon Over/Under"

and inserting the following:

"E.A.A./Sabatti Falcon-Mon Over/Under".

(h) INSERTION OF MISSING COMMAS.—Section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note; Public Law 103–159) is amended in each of subsections (e)(1), (g), and (i)(2) by inserting a comma after "United States Code".

(i) CORRECTION OF UNEXECUTABLE AMENDMENTS RELATING TO THE VIOLENT CRIME REDUCTION TRUST FUND.—

(1) CORRECTION.—Section 210603(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking "Fund," and inserting "Fund established by section 1115 of title 31, United States Code,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 210603(b) of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(j) CORRECTION OF UNEXECUTABLE AMENDMENT TO SECTION 923.—

(1) CORRECTION.—Section 201(1) of the Act, entitled "An Act to provide for a waiting period before the purchase of a handgun, and for the establishment of a national instant criminal background check system to be contacted by firearms dealers before the transfer of any firearm." (Public Law 103–159), is amended by striking "thereon," and inserting "thereon".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in the Act referred to in paragraph (1) on the date of the enactment of such Act.

(k) CORRECTION OF PUNCTUATION AND INDENTATION IN SECTION 923.—Section 923(g)(1)(B)(ii) of title 18, United States Code, is amended—

(1) by striking the period and inserting "; or"; and

(2) by moving such clause 4 ems to the left.

(l) REDESIGNATION OF SUBSECTION AND CORRECTION OF INDENTATION IN SECTION 923.—Section 923 of title 18, United States Code, is amended—

(1) by redesignating the last subsection as subsection (l); and

(2) by moving such subsection 2 ems to the left.

(m) CORRECTION OF TYPOGRAPHICAL ERROR IN AMENDATORY PROVISION.—

(1) CORRECTION.—Section 110507 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended—

(A) by striking "924(a)" and inserting "924"; and

(B) in paragraph (2), by striking "subsections" and inserting "subsection".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if the amendments had been included in section 110507 of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(n) ELIMINATION OF DUPLICATE AMENDMENT.—Subsection (h) of section 330002 of the Violent Crime Control and Law Enforcement Act of 1994 is repealed and shall be considered never to have been enacted.

(o) REDESIGNATION OF PARAGRAPH IN SECTION 924.—Section 924(a) of title 18, United States Code, is amended by redesignating the 2nd paragraph (5) as paragraph (6).

(p) ELIMINATION OF COMMA ERRONEOUSLY INCLUDED IN AMENDMENT TO SECTION 924.—

(1) AMENDMENT.—Section 110102(c)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "shotgun," and inserting "shotgun".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if the amendment had been included in section 110102(c)(2) of the Act referred to in paragraph (1) on the date of the enactment of such Act.

(q) INSERTION OF CLOSE PARENTHESIS IN SECTION 924.—Section 924(j)(3) of title 18, United States Code, is amended by inserting a close parenthesis before the comma.

(r) REDESIGNATION OF SUBSECTIONS IN SECTION 924.—Section 924 of title 18, United States Code, is amended by redesignating the 2nd subsection (i), and subsections (j), (k), (l), (m), and (n) as subsections (j), (k), (l), (m), (n), and (o), respectively.

(s) CORRECTION OF ERRONEOUS CROSS REFERENCE IN AMENDATORY PROVISION.—Section 110504(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended by striking "110203(a)" and inserting "110503".

(t) CORRECTION OF CROSS REFERENCE IN SECTION 930.—Section 930(e)(2) of title 18, United States Code, is amended by striking "(c)" and inserting "(d)".

(u) CORRECTION OF CROSS REFERENCES IN SECTION 930.—The last subsection of section 930 of title 18, United States Code, is amended—

(1) by striking "(g)" and inserting "(h)"; and

(2) by striking "(d)" each place such term appears and inserting "(e)".

SEC. 604. ADDITIONAL AMENDMENTS ARISING FROM ERRORS IN PUBLIC LAW 103–322.

(a) STYLISTIC CORRECTIONS RELATING TO TABLES OF SECTIONS.—

(1) The table of sections at the beginning of chapter 110A of title 18, United States Code, is amended to read as follows:

"Sec.
"2261. Interstate domestic violence.
"2262. Interstate violation of protection order.
"2263. Pretrial release of defendant.
"2264. Restitution.
"2265. Full faith and credit given to protection orders.
"2266. Definitions.".

(2) Chapter 26 of title 18, United States Code, is amended by inserting after the heading for such chapter the following table of sections:

"Sec.
"521. Criminal street gangs.".

(3) Chapter 123 of title 18, United States Code, is amended by inserting after the heading for such chapter the following table of sections:

"Sec.
"2721. Prohibition on release and use of certain personal information from State motor vehicle records.
"2722. Additional unlawful acts.
"2723. Penalties.
"2724. Civil action.
"2725. Definitions.".

(4) The item relating to section 3509 in the table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking "Victims'" and inserting "victims'".

(b) UNIT REFERENCE CORRECTIONS, REMOVAL OF DUPLICATE AMENDMENTS, AND OTHER SIMILAR CORRECTIONS.—

(1) Section 40503(b)(3) of Public Law 103–322 is amended by striking "paragraph (b)(1)" and inserting "paragraph (1)".

(2) Section 60003(a)(2) of Public Law 103–322 is amended by striking "at the end of the section" and inserting "at the end of the subsection".

(3) Section 3582(c)(1)(A)(i) of title 18, United States Code, is amended by adding "or" at the end.

(4) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by redesignating the second paragraph (43) as paragraph (44).

(5) Subsections (a) and (b) of section 120005 of Public Law 103–322 are each amended by inserting "at the end" after "adding".

(6) Section 160001(f) of Public Law 103–322 is amended by striking "1961(l)" and inserting "1961(1)".

(7) Section 170201(c) of Public Law 103–322 is amended by striking paragraphs (1), (2), and (3).

(8) Subparagraph (D) of section 511(b)(2) of title 18, United States Code, is amended by adjusting its margin to be the same as the margin of subparagraph (C) and adjusting the margins of its clauses so they are indented 2-ems further than the margin of the subparagraph.

(9) Section 230207 of Public Law 103–322 is amended by striking "two" and inserting "2" the first place it appears.

(10) The first of the two undesignated paragraphs of section 240002(c) of Public Law 103–322 is designated as paragraph (1) and the second as paragraph (2).

(11) Section 280005(a) of Public Law 103–322 is amended by striking "Section 991 (a)" and inserting "Section 991(a)".

(12) Section 320101 of Public Law 103–322 is amended—

(A) in subsection (b), by striking paragraph (1);

(B) in subsection (c), by striking paragraphs (1)(A) and (2)(A);

(C) in subsection (d), by striking paragraph (3); and

(D) in subsection (e), by striking paragraphs (1) and (2).

(13) Section 320102 of Public Law 103–322 is amended by striking paragraph (2).

(14) Section 320103 of Public Law 103–322 is amended—

(A) in subsection (a), by striking paragraph (1);

(B) in subsection (b), by striking paragraph (1); and

(C) in subsection (c), by striking paragraphs (1) and (3).

(15) Section 320103(e) of Public Law 103–322 is amended—

(A) in the subsection catchline, by striking "FAIR HOUSING" and inserting "1968 CIVIL RIGHTS"; and

(B) by striking "of the Fair Housing Act" and inserting "of the Civil Rights Act of 1968".

(16) Section 320109(1) of Public Law 103–322 is amended by inserting an open quotation mark before "(a) IN GENERAL".

(17) Section 320602(1) of Public Law 103–322 is amended by striking "whoever" and inserting "Whoever".

(18) Section 668(a) of title 18, United States Code, is amended—

(A) by designating the first undesignated paragraph that begins with a quotation mark as paragraph (1);

(B) by designating the second undesignated paragraph that begins with a quotation mark as paragraph (2); and

(C) by striking the close quotation mark and the period at the end of the subsection.

(19) Section 320911(a) of Public Law 103–322 is amended in each of paragraphs (1) and (2), by striking "thirteenth" and inserting "14th".

(20) Section 2311 of title 18, United States Code, is amended by striking "livestock" where it appears in quotation marks and inserting "Livestock".

(21) Section 540A(c) of title 28, United States Code, is amended—

(A) by designating the first undesignated paragraph as paragraph (1);

(B) by designating the second undesignated paragraph as paragraph (2); and

(C) by designating the third undesignated paragraph as paragraph (3).

(22) Section 330002(d) of Public Law 103–322 is amended by striking "the comma" and inserting "each comma".

(23) Section 330004(18) of Public Law 103–322 is amended by striking "the Philippine" and inserting "Philippine".

(24) Section 330010(17) of Public Law 103–322 is amended by striking "(2)(iii)" and inserting "(2)(A)(iii)".

(25) Section 330011(d) of Public Law 103–322 is amended—

(A) by striking "each place" and inserting "the first place"; and

(B) by striking "1169" and inserting "1168".

(26) The item in the table of sections at the beginning of chapter 53 of title 18, United States Code, that relates to section 1169 is transferred to appear after the item relating to section 1168.

(27) Section 901 of the Civil Rights Act of 1968 is amended by striking "under this title" each place it appears and inserting "under title 18, United States Code,".

(28) Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended by striking "law)." and inserting "law)".

(29) Section 250008(a)(2) of Public Law 103–322 is amended by striking "this Act" and inserting "provisions of law amended by this title".

(30) Section 36(a) of title 18, United States Code, is amended—

(A) in paragraph (1), by striking "403(c)" and inserting "408(c)"; and

(B) in paragraph (2), by striking "Export Control" and inserting "Export".

(31) Section 1512(a)(2)(A) of title 18, United States Code, is amended by adding "and" at the end.

(32) Section 13(b)(2)(A) of title 18, United States Code, is amended by striking "of not more than $1,000" and inserting "under this title".

(33) Section 160001(g)(1) of Public Law 103–322 is amended by striking "(a) Whoever" and inserting "Whoever".

(34) Section 290001(a) of Public Law 103–322 is amended by striking "subtitle" and inserting "section".

(35) Section 3592(c)(12) of title 18, United States Code, is amended by striking "Controlled Substances Act" and inserting "Comprehensive Drug Abuse Prevention and Control Act of 1970".

(36) Section 1030 of title 18, United States Code, is amended—

(A) by inserting "or" at the end of subsection (a)(5)(B)(ii)(II)(bb);

(B) by striking "and" after the semicolon in subsection (c)(1)(B);

(C) in subsection (g), by striking "the section" and inserting "this section"; and

(D) in subsection (h), by striking "section 1030(a)(5) of title 18, United States Code" and inserting "subsection (a)(5)".

(37) Section 320103(c) of Public Law 103–322 is amended by striking the semicolon at the end of paragraph (2) and inserting a close quotation mark followed by a semicolon.

(38) Section 320104(b) of Public Law 103–322 is amended by striking the comma that follows "2319 (relating to copyright infringement)" the first place it appears.

(39) Section 1515(a)(1)(D) of title 18, United States Code, is amended by striking "; or" and inserting a semicolon.

(40) Section 5037(b) of title 18, United States Code, is amended in each of paragraphs (1)(B) and (2)(B), by striking "3561(b)" and inserting "3561(c)".

(41) Section 330004(3) of Public Law 103–322 is amended by striking "thirteenth" and inserting "14th".

(42) Section 2511(1)(e)(i) of title 18, United States Code, is amended—

(A) by striking "sections 2511(2)(A)(ii), 2511(b)–(c), 2511(e)" and inserting "sections 2511(2)(a)(ii), 2511(2)(b)–(c), 2511(2)(e)"; and

(B) by striking "subchapter" and inserting "chapter".

(43) Section 1516(b) of title 18, United States Code, is amended by inserting "and" at the end of paragraph (1).

(44) The item relating to section 1920 in the table of sections at the beginning of chapter 93 of title 18, United States Code, is amended by striking "employee's" and inserting "employees'".

(45) Section 330022 of Public Law 103–322 is amended by inserting a period after "communications" and before the close quotation mark.

(46) Section 2721(c) of title 18, United States Code, is amended by striking "covered by this title" and inserting "covered by this chapter".

(c) ELIMINATION OF EXTRA WORDS.—

(1) Section 3561(b) of title 18, United States Code, is amended by striking "or any relative defendant, child, or former child of the defendant,".

(2) Section 351(e) of title 18, United States Code, is amended by striking "involved in the use of a" and inserting "involved the use of a".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of Public Law 103–322.

SEC. 605. ADDITIONAL TYPOGRAPHICAL AND SIMILAR ERRORS FROM VARIOUS SOURCES.

(a) MISUSED CONNECTOR.—Section 1958(a) of title 18, United States Code, is amended by striking "this title and imprisoned" and inserting "this title or imprisoned".

(b) SPELLING ERROR.—Effective on the date of its enactment, section 961(h)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "Saving and Loan" and inserting "Savings and Loan".

(c) WRONG SECTION DESIGNATION.—The table of chapters for part I of title 18, United States Code, is amended in the item relating to chapter 71 by striking "1461" and inserting "1460".

(d) INTERNAL CROSS REFERENCE.—Section 2262(a)(1)(A)(ii) of title 18, United States Code, is amended by striking "subparagraph (A)" and inserting "this subparagraph".

(e) MISSING COMMA.—Section 1361 of title 18, United States Code, is amended by inserting a comma after "attempts to commit any of the foregoing offenses".

(f) CROSS REFERENCE ERROR FROM PUBLIC LAW 103–414.—The first sentence of section 2703(d) of title 18, United States Code, by striking "3126(2)(A)" and inserting "3127(2)(A)".

(g) INTERNAL REFERENCE ERROR IN PUBLIC LAW 103–359.—Section 3077(8)(A) of title 18, United States Code, is amended by striking "title 18, United States Code" and inserting "this title".

(h) SPELLING AND INTERNAL REFERENCE ERROR IN SECTION 3509.—Section 3509 of title 18, United States Code, is amended—

(1) in subsection (e), by striking "government's" and inserting "Government's"; and

(2) in subsection (h)(3), by striking "subpart" and inserting "paragraph".

(i) ERROR IN SUBDIVISION FROM PUBLIC LAW 103–329.—Section 3056(a)(3) of title 18, United States Code, is amended by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively and moving the margins of such subparagraphs 2 ems to the right.

*(j) TABLE OF CONTENTS CORRECTION.—The table of contents at the beginning of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by inserting "**TITLE I—HABEAS CORPUS REFORM**" before the item relating to section 101.*

(k) CORRECTING ERROR IN AMENDATORY INSTRUCTIONS.—Section 107(b) of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by striking "IV" and inserting "VI".

(l) CORRECTING ERROR IN DESCRIPTION OF PROVISION AMENDED.—With respect to subparagraph (F) only of paragraph (1) of section 205(a) of the Antiterrorism and Effective Death Penalty Act of 1996, the reference at the beginning of such paragraph to "subsection (a)(1)" shall be deemed a reference to "subsection (a)".

(m) ADDITION OF MISSING REFERENCE.—Section 725(2) of the Antiterrorism and Effective Death Penalty Act of 1996 is amended by inserting "(2)" after "subsection (b)".

(n) CONFORMING AMENDMENT TO TABLE OF SECTIONS.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059A the following new item: "3059B. General reward authority.".

(o) INSERTION OF MISSING PUNCTUATION.—Section 6005(b)(3) of title 18, United States Code, is amended by adding a period at the end.

(p) CORRECTION OF ERRONEOUS SECTION NUMBER.—

(1) Section 2401 of title 18, United States Code, is redesignated as section 2441.

(2) The item relating to section 2401 in the table of sections at the beginning of chapter 118 of title 18, United States Code, is amended by striking "2401" and inserting "2441".

*(3) The table of chapters for part I of title 18, United States Code, is amended in the item relating to chapter 118, by striking "**2401**" and inserting "**2441**".*

(q) DUPLICATE SECTION NUMBER.—That section 2332d of title 18, United States Code, that relates to requests for military assistance to enforce prohibition in certain emergencies is redesignated as section 2332e and moved to follow the section 2332d that relates to financial transactions, and the item relating to the section redesignated by this subsection is amended by striking "2332d' and inserting "2332e" and moved to follow the item relating to the section 2332d that relates to financial transactions.

(r) CORRECTION OF WORD USAGE.—Section 247(d) of title 18, United States Code, is amended by striking "notification" and inserting "certification".

SEC. 606. ADJUSTING AND MAKING UNIFORM THE DOLLAR AMOUNTS USED IN TITLE 18 TO DISTINGUISH BETWEEN GRADES OF OFFENSES.

(a) Sections 215, 288, 641, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 661, 662, 665, 872, 1003, 1025, 1163, 1361, 1707, 1711, and 2113 of title 18, United States Code, are amended by striking "$100" each place it appears and inserting "$1,000".

(b) Section 510 of title 18, United States Code, is amended by striking "$500" and inserting "$1,000".

SEC. 607. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Sections 241 and 242 of title 18, United States Code, are each amended by striking "any State, Territory, or District" and inserting "any State, Territory, Commonwealth, Possession, or District".

(b) Sections 793(h)(1) and 794(d)(1) of title 18, United States Code, are each amended by adding at the end the following: "For the purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 925(a)(5) of title 18, United States Code, is amended by striking "For the purpose of paragraphs (3) and (4)" and inserting "For the purpose of paragraph (3)".

(d) Sections 1014 and 2113(g) of title 18, United States Code, are each amended by adding at the end the following: "The term 'State-chartered credit union' includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.".

(e) Section 1073 of title 18, United States Code, is amended by adding at the end of the first paragraph the following: "For the purposes of clause (3) of this paragraph, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(f) Section 1715 of title 18, United States Code, is amended by striking "State, Territory, or District" each place those words appear and inserting "State, Territory, Commonwealth, Possession, or District".

(g) Section 1716 of title 18, United States Code, is amended—

(1) in subsection (g)(2) by striking "State, Territory, or the District of Columbia" and inserting "State";

(2) in subsection (g)(3) by striking "the municipal government of the District of Columbia or of the government of any State or territory, or any county, city, or other political subdivision of a State" and inserting "any State, or any political subdivision of a State"; and

(3) by adding at the end the following:

"(j) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(h) Section 1761 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purposes of this section, the term 'State' means a State of the United States and any commonwealth, territory, or possession of the United States.".

(i) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period and inserting "; and" at the end of paragraph (4); and

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

"(5) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(j) Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) by amending paragraph (26) to read as follows:

"(26) The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) by redesignating paragraph (43), as added by section 90105(d) of the Violent Crime Control and Law Enforcement Act of 1994, as paragraph (44).

(k) Section 1121 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c) For the purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 228(d)(2) of title 18, United States Code, is amended by inserting "commonwealth," before "possession or territory of the United States".

(m) Section 1546(c) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 1541 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking "or possession"; and

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

"For purposes of this section, the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(o) Section 37(c) of title 18, United States Code, is amended in the final sentence by inserting before the period the following: ", and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States".

(p) Section 2281(c) of title 18, United States Code, is amended in the final sentence by inserting before the period the following: ", and the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States".

(q) Section 521(a) of title 18, United States Code, is amended by adding at the end the following: "'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

Mr. SPECTER. Mr. President, I am pleased that the Senate is acting today to pass the Economic Espionage Act of 1996, legislation Senator KOHL and I introduced earlier this year to combat economic espionage. This bill addresses an issue of critical importance to our Nation's economic well-being. It is a testament to the importance of the issue that we are able to act in a bipartisan fashion on the eve of national elections.

As chairman of both the Select Committee on Intelligence and the Judiciary Committee's Subcommittee on Terrorism, Technology and Government Information, with jurisdiction over legal matters involving technology, I have been concerned with the threat posed to American economic competitiveness in a global economy by the theft of intellectual property and trade secrets.

In an increasingly complex and competitive economic world, intellectual property forms a critical component of our economy. As traditional industries shift to low-wage producers in developing countries, our economic edge depends to an ever-increasing degree on the ability of our businesses and inventors to stay one step ahead of those in other countries. And American business and inventors have been extremely successful and creative in developing intellectual property and trade secrets. America leads the nation's of the world in developing new products and new technologies. Millions of jobs depend on the continuation of the productive minds of Americans, both native born and immigrants who find the freedom here to try new ideas and add to our economic strength.

Inventing new and better technologies, production methods, and the like, can be expensive. American companies and the U.S. Government spend billions on research and development. The benefits reaped from these expenditures can easily come to nothing, however, if a competitor can simply steal the trade secret without expending the development costs. While prices may be reduced, ultimately the incentives for new invention disappear, along with jobs, capital investment, and everything else that keeps our economy strong.

For years now, there has been mounting evidence that many foreign nations and their corporations have been seeking to gain competitive advantage by stealing the trade secrets, the intangible intellectual property of inventors in this country. The Intelligence Committee has been aware that since the end of the cold war, foreign nations have increasingly put their espionage resources to work trying to steal American economic secrets. Estimates of the loss to U.S. business from the theft of intangible intellectual property exceed $100 billion. The loss in U.S. jobs is incalculable.

For the benefit of my colleagues who wish more detail about the nature and scope of the problem of economic espionage, I ask unanimous consent that a copy of the article "The Lure of the Steal" from the March 4, 1996, U.S. News & World Report, and an article by Peter Schweizer, "The Growth of Economic Espionage—America if Target Number One" from the January–February 1996 edition of Foreign Affairs be printed at the end of my remarks.

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

(See exhibit 1.)

Mr. SPECTER. Mr. President, a major problem for law enforcement in responding to the increase in such thefts has been a glaring gap in Federal law. For many years, the United States has had a variety of theft statutes in the United States Code. These laws are derived primarily from the common law of theft. For example, it violates Federal law to move stolen property across State lines. In order to violate such laws, however, the courts have held that the property stolen cannot be intangible property, such as trade secrets or intellectual property. In addition, theft usually requires that the thief take the property with the intention of depriving the lawful owner of its use. But such a test if useless when a person copies software and leaves the original software with the lawful owner, taking only the secrets on the software but leaving the physical property. The lawful owner still has full use

of the property, but its value is significantly reduced.

In order to update Federal law to address the technological and economic realities of the end of the 20th century, I began working earlier this year with Senator KOHL and officials from the Department of Justice and the Federal Bureau of Investigation on developing legislation. We developed two separate bills, that were introduced as S. 1556 and S. 1557. The former bill broadly prohibited the theft of proprietary economic information by any person. The latter bill was more narrowly drawn to proscribe such thefts by foreign nations and those working on behalf of foreign nations.

At the end of February, I chaired a joint hearing of the Intelligence Committee and the Judiciary Subcommittee on Terrorism, Technology, and Government Information on the issue of economic espionage. Continuing to work closely with members of the Judiciary and Intelligence Committees, the administration, and various industry groups, Senator KOHL and I were able to produce the bill the Senate is today considering.

The Senate adopted S. 1556 with an amendment I offered, based on S. 1557, to bring together into a single vehicle the prohibition on the theft of trade secrets and proprietary information by both private individuals and corporations and by foreign governments and those acting on their behalf, and passed them using H.R. 3723, the House companion bill, as the vehicle. The language of my amendment dealing with foreign-government-sponsored economic espionage was, with minor changes, unanimously reported to the Senate by the Intelligence Committee earlier this year as part of the Intelligence Authorization Act. We have now reconciled the Senate- and House-passed bills in this agreement, which also incorporates several unrelated provisions. Senator KOHL and I are inserting into the RECORD a managers' statement which reflects the understanding of the bill's sponsors on the intent behind and meaning of the economic espionage bill.

Adoption of this bill will not be a panacea, but it is a start. Congress has started moving to protect U.S. economic interests. For example, earlier this year we enacted strong anticounterfeiting legislation, S. 1136, to protect American business from counterfeit goods. This bill addresses cognate problems. Both are only a start. Corporations must exercise vigilance over their trade secrets and proprietary information. Contract law may provide civil remedies. In addition, some States have adopted legislation to allow the owners of trade secrets to use civil process to protect their ownership rights. We have been made aware that available civil remedies may not be adequate to the task and that a Federal civil cause of action is needed. This is an issue we need to study carefully, and will do so next year.

For helping to make sure that this legislation was passed this year, I want to thank Senator KOHL for his leadership, and acknowledge the work of his excellent staff, Jon Leibowitz and Victoria Bassetti. I also want to thank the chairman of the Judiciary Committee, Senator HATCH, and his staff, especially Paul Larkin and Pat Murphy, for their valuable contributions to this legislation. I would also be remiss if I did not also thank Chairman MCCOLLUM of the House Crime Subcommittee, and Representative SCHUMER, ranking member of that Subcommittee, and their staff, Glenn Schmitt and Bill McGeveran, for their hard work. Finally, we worked closely with the Justice Department and the Federal Bureau of Investigation in developing this legislation, and I want to thank Alan Hoffman of the Justice Department and Pat Kelly of the FBI for their hard work on this bill.

EXHIBIT 1

[From U.S. News & World Report, Mar. 4, 1996]

THE LURE OF THE STEAL

(By Douglas Pasternak with Gordon Witkin)

Not long ago, Subrahmanyam M. Kota went into hamsters—or, to be more precise, their ovary cells. That was a big switch for Kota. In the 1980s, he allegedly sold military secrets on infrared detectors to the KGB. With the cold war over, however, hamster ovaries were the coming thing. A Boston biotech company had genetically engineered the cells to produce a protein that boosted the manufacture of red blood cells, making them a valuable commodity. Kota and a former company scientist are charged with stealing a batch of the hamster cells and offering them to an FBI undercover agent in exchange for $300,000. Law enforcement officials suspect the pair of selling another batch to a biomedical research outfit in India. It was dramatic evidence of how the world of espionage has changed—from selling secrets to the KGB one year to moving hamster ovaries to a research firm in India another. Kota has been charged with three counts of espionage. He pleaded not guilty and is out on bail awaiting trial.

Today the field of economic espionage is wide open. Instead of missile launch codes, the new targets of choice are technological and scientific data concerning flat-panel televisions, electric cars and new computers. "During the cold war, we thought of the threat as KGB agents crawling into the facility," says Gregory Gwash, the deputy director for industrial security matters at the Defense Investigative Service. "The game is no longer espionage in the classic sense."

GROWING THREAT

Economic espionage is as old as greed itself. But with huge sums to be made stealing designs for computer chips and patents for hormones, the threat is growing. Rapid changes in technology are tempting many countries to try to acquire intellectual properties in underhanded ways, thus bypassing the enormous costs of research and development. New global communications—cellular phones, faxes, voice transmissions and data on the Internet—make this type of spying easier than ever.

And it's not just hostile governments snooping. "Countries don't have friends. They have interests!" declares a poster from the Department of Energy's counterintelligence program. "Guess which countries are interested in what you do?" A senior U.S. intelligence official answers the question. "The ones who do it most," he says, "are our greatest friends."

Indeed, countries such as France, Israel and China have made economic espionage a top priority of their foreign intelligence services. A congressional report released last week confirmed that close U.S. allies are after critical U.S. technology, saying they posed "a significant threat to national security."

INTENSIFIED EFFORTS

Friend or enemy, Washington is taking the trend seriously. The nation's intelligence agencies are increasing their overseas collection of information on foreign bribery schemes that put U.S. corporations at a disadvantage. The agencies are also providing classified information to U.S. policy makers engaged in trade negotiations with foreign governments. Domestically, the FBI has also taken more-aggressive steps recently. This month, the Justice Department sent new draft legislation that would bolster the FBI's ability to investigate economic espionage to the Office of Management and Budget. The new bill—named the Economic Espionage and Protection of Proprietary Economic Information Act of 1996—is badly needed, says the FBI, because there are no statutes that deal with the theft of intellectual property, making it difficult to prosecute such cases.

In the past year, FBI agents have recorded more than a 100 percent increase in economic spying and now have more than 800 cases under investigation—espionage attempts from the supersophisticated to the downright crude. "We're seeing all of the above," says Robert "Bear" Bryant, who oversees all FBI counterintelligence investigations nationwide, "from the cyberattack to the shoplifter."

Economic-espionage investigations require the FBI to gather intelligence through electronic surveillance and physical searches, a source of concern to many civil libertarians. But the FBI is empowered under existing law to gather intelligence for such purposes, and the new legislation would define more precisely how and when FBI agents could investigate the theft of corporate secrets. The key, legal specialists and FBI supervisors say, is defining precisely what constitutes conducting intelligence investigations, looking for spies and theft prevention, and what is a primarily criminal investigation whose objective is to put a spy behind bars. Both objectives can be accomplished, but the law requires intelligence and law enforcement interests be defined very carefully.

The quest for corporate advantage has put many of the old players from the cold war back on the chessboard. Just this month. Russian President Boris Yeltsin ordered his senior intelligence officials to increase their efforts to obtain high-technology secrets from the West.

Besides gathering intelligence and conducting criminal investigations, federal law enforcement officials have been trying to help corporations protect themselves. A law enacted in 1994 authorizes Attorney General Janet Reno to make payments of up to $500,000 for information leading to the arrest and conviction of anyone involved in economic espionage. The National Counterintelligence Center, headed by an FBI agent but

based at CIA headquarters in suburban Virginia, was established in August 1994, in part to help coordinate a governmentwide response to economic espionage incidents. The center began providing regional security briefings for industry last May. The FBI recently opened its own Economic Counterintelligence Unit, and its Development of Espionage, Counterintelligence and Counterterrorism Awareness (DECA) program inaugurated an instant fax alert service to U.S. corporations regarding specific economic-intelligence-collection activities. It is supplemented by the State Department's Overseas Security Advisory Council, which, like DECA, has begun posting economic threat information on an on-line bulletin board for its members.

Some security experts say the FBI should employ more active measures to counter the threat. Mike Sekora tracked the global technology trade for the Defense Department in the 1980s, identifying foreign interest in U.S. technology to pre-empt thefts. Now a technology consultant, he believes the FBI should do the same.

Profit motives aside, economic espionage is booming because there are few penalties for those who get caught. Rarely do economic spies serve time in jail. Nor do countries that encourage such activities have much to lose; since most are U.S. allies, Washington prefers to scold them in private rather than risk political backlash in public.

Companies and industries targeted by foreign spies often contribute to the problem. Few report known acts of espionage, fearing it will affect stock prices and customer confidence. In a survey published in July by the National Counterintelligence Center, 42 percent of the responding corporations said they never reported suspected incidents of economic espionage to the government. At the same time, 74 of 173 companies that responded to the survey reported a total of 446 incidents of suspected economic espionage.

CULTUREBOUND

The methods used to acquire economic-related data are often culturebound. "The Chinese and Japanese flood you with people collecting all sorts of things in different areas," says a former FBI official. "For the most part, it is absolutely legal," he said. "The Japanese don't invest a lot of money in trade craft. They just send lots of people out talking and pick up trade secrets in the process," says the retired official. The Russians and French, on the other hand, use both legal and illegal means to target specific intelligence, experts say.

Targeting economic data can take many forms. In two separate incidents in the early 1990s, French nationals working at Renaissance Software Inc. in Palo Alto, Calif., were arrested at San Francisco International Airport for attempting to steal the company's proprietary computer source codes. Marc Goldberg, a French computer engineer, had worked at the company under a program sponsored by the French Ministry of Foreign Affairs that allows French citizens to opt out of military service if they are willing to work at high-tech U.S. firms. He was fined $1,000 and ordered to perform 1,000 hours of community service. The other individual, Jean Safar, was released soon after his arrest by the FBI. "They said they did not have the power to do anything," recalls Renaissance's former president, Patrick Barkhordarian. The company, in fact, had received start-up funds from two French brothers, Daniel and Andrew Harari. In return for their investment, they received positions on the company's five-member board of directors. When an internal dispute erupted in 1992, the Harari brothers were able to place a third French citizen on the board. "They converted the company to a French company," said Barkhordarian. Safar was told by the company, claims Barkhordarian, to take the source codes to France. There was nothing illegal about it. Renaissance was acquired by a publicly held U.S. company last fall.

Even when the collection methods are legal, the results can hurt. In the summer of 1994, a film crew from Japanese public television visited dozens of U.S. biotech corporations, including California biotech giant Amgen, while filming a documentary on the industry. William Boni, Amgen's security director, was warned by a DECA agent that the FBI suspected the film was a cover for intelligence collection. Still, Boni allowed the visit, partly because the director of the film said this would help Amgen break into the Japanese biotech market. Once at Amgen, film crew members photographed every document they possibly could, including company production numbers. "This was a very clear-cut case of benchmarking America's best practices for their industry," says Boni. "They ran their vacuum cleaner over the U.S. biotech industry."

Some efforts are not so subtle. In one case, an Amgen employee attempted to steal vials of Epogen, a genetically engineered hormone that controls the production of red blood cells and is one of two patented items in the company's product line. Security chief Boni was tipped to the threat by an anonymous letter, which said that the employee was planning to open up a black market in Epogen in his home country in Asia. The employee confessed. He was fired, but no charges were filed. Had the theft attempt succeeded, the rogue employee and an accomplice could have made a fortune. In 1995, Epogen sales amounted to nearly $1 billion.

Neither of the two prongs of the U.S. attempt to combat such threats is simple. Like his predecessors, Directories of Central Intelligence John Deutch has provided clear marching orders to the CIA and other agencies that gather intelligence overseas. The agencies are to inform U.S. policy makers if foreign competitors are winning business abroad through bribery or other illegal means. In 1994, Boeing Aerospace, McDonnel Douglas and Raytheon Corp. won two multibillion-dollar contracts from Saudi Arabia and Brazil after President Clinton complained to those governments about bribes that rival French companies had paid to win the contracts, the information on the bribes came from U.S. intelligence agencies. President Clinton strongly endorses such action. "You uncovered bribes that would have cheated American companies out of billions of dollars," he told a gathering of CIA employees last July. Over the past three years, the CIA has reportedly saved U.S. corporations $30 billion as a result of those efforts.

THREAT INFORMATION

Deutch has made it clear that, unlike the foreign intelligence services of at least 50 other nations, America's spy services are forbidden to engage in economic espionage for the benefit of corporate America. That's clear enough, but in today's global, multinational economy, it is often difficult to distinguish American from foreign corporations. The FBI, in fact, makes no such distinctions and provides all corporations operating in the United States with threat information regarding economic espionage.

The other mission of the CIA and its sister agencies that operate abroad is to provide economic intelligence to U.S. policy makers. Last spring, the intelligence community helped U.S. trade officials learn of Japanese negotiating positions during automobile trade talks. This was perfectly legal under U.S. law, but the press disclosure prompted a firestorm of criticism from Capitol Hill, prompting some intelligence officials to grumble that such activities were more trouble then they were worth. Last year, several CIA officers were expelled from France for engaging in an intelligence operation to obtain information on France's position on global telecommunications talks. The CIA's inspector general investigated the matter, and a report is expected shortly.

Given the ratio of risk to potential reward, many intelligence officials argue that America's espionage agencies should not be used to acquire economic information secretly when so much can be obtained from open sources. "What you try to gain covertly," says Charles Emmling, a former CIA case officer who recruited Soviet agents from 1968 to 1991 and now teaches businesses how to protect their corporate trade secrets at Aegis Research Corp., "becomes less and less important." Robert Steele, a 20-year veteran of the CIA's clandestine service, says the agency relies on cloak-and-dagger techniques out of habit. "Don't send a spy," Steele says, "where a schoolboy can go." That was precisely the mistake the CIA made last year in France, critics say.

The second prong of the U.S. effort, playing defense, is also more complicated than ever. Kenneth Geide, the head of the FBI's new economic counterintelligence unit, says that there are a host of ways to go after a target and that often "foreign governments are hiding their collection [activities] within legitimate activities."

But some former law enforcement and intelligence officials fear that legal collection of information may be investigated simply to determine if illegal methods are being used. They argue that the onus of protecting proprietary information should remain on the shoulders of industry, not government. "It is our responsibility to protect this [information], and it is our liability if we don't," contends a former intelligence official now in the private sector. There is still debate on the proper balanced role of law enforcement in countering this new threat within government as well. "We don't want the FBI in our bedrooms *or* our boardrooms," quips a senior administration official.

The FBI defends its approach and has vowed not to overstep its bounds. How to meet such a varied threat? "We don't intend to, want to and can't investigate all foreigners," Geide says. The threat to America's national security from spies seeking economic secrets has increased significantly, but Geide says: "We don't want to be alarmist about it. It deserves a measured approach."

THE GROWTH OF ECONOMIC ESPIONAGE

(By Peter Schweizer)

Shortly after CIA officer Aldrich "Rick" Ames began selling secrets to the Soviet KGB in 1985, a scientist named Ronald Hoffman also began peddling classified information. Ames, the last known mole of the Cold War, received $4.6 million for names of CIA informants before he was apprehended in early 1994. But Hoffman, a project manager for a company called Science Applications, Inc., made $750,000 selling complex software programs developed under secret contract for the Strategic Defense Initiative (SDI). Hoffman, who was caught in 1992, sold his wares to Japanese multinationals—Nissan Motor Company, Mitsubishi Electric,

Mitsubishi Heavy Industries, and Ishikawajima-Harima Heavy Industries—that wanted the information for civilian aerospace programs.

Ames received the more dramatic and sensational coverage, as he should have, given that his betrayal led to the loss of life. But the Hoffman case represents the future of intelligence. While one spied for America's chief military rival, the other sold information to a major economic competitor. Perhaps it should induce an epiphany of sorts that these two cases occurred in near congruence.

As economic competition supplants military confrontation in global affairs, spying for high-tech secrets with commercial applications will continue to grow, and military spying will recede into the background. How the United States elects to deal with this troubling issue will not only determine the direction of the American intelligence community, but also set the tone for commercial relations in the global marketplace.

THE NEW CURRENCY OF POWER

Most economic agents systematically collect economic intelligence using legal means. Major corporations collect business intelligence to read industry trends and scout the competition. Many nations track global and regional economic trends and even technological breakthroughs to aid policymakers. But a growing number of states have become very active in gathering intelligence on specific industries or even companies and sharing it with domestic producers. Indeed, economic espionage, the outright theft of private information, has become a popular tool as states try to supplement their companies' competitive advantage. This is sheer folly, threatening to restore mercantilism through the back door.

The United States has devoted increasing attention to intelligence on economic issues, sometimes with diplomatic consequences. French Interior Minister Charles Pasqua summoned U.S. Ambassador Pamela Harriman to his office on January 26 of this year to protest U.S. spying on French commercial and technological developments. According to *Le Monde*, CIA agents flush with 500-franc notes tried to bribe a member of the French parliament to reveal France's negotiating position on the nascent World Trade Organization. A senior official in the Ministry of Communications was offered cash for intelligence on telecommunications and audiovisual policy. A technician for France Telecom, the national telephone network, was also approached. All three immediately notified the French Directorate of Territorial Surveillance, which ordered them to play along with the Americans and lay a trap.

More recently, an October 15 story in The New York Times disclosed that American intelligence agents assisted U.S. trade negotiators by eavesdropping on Japanese officials in the cantankerous dispute over car imports. U.S. Trade Representative Mickey Kantor and his aides were the reported beneficiaries of daily briefings by the CIA, including information gathered by the CIA's Tokyo station and the National Security Agency's vast electronic network. How useful this information was remains open to debate. After all, the agreement the United States and Japan ultimately reached was hardly an unambiguous victory for Washington.

These reports, which appear to be accurate, indicate that the United States is following the model for economic intelligence several recent CIA directors have proposed. In 1991, believing that the CIA could make a "unique contribution" by uncovering foreign economic espionage in the United States and gathering information about the attempts of other governments to violate international trade agreements and "other basic rules of fair play," Robert Gates called for a deeper look at applying the tools of intelligence to economic matters. By 1993, James Woolsey had declared no more Mr. Nice Guy and promised that the CIA would sniff out unfair trade practices and industrial espionage directed against American firms.

Even with all this heightened activity and interest, the United States is far less involved in economic espionage than most of its major allies and trading partners. Spying on trade negotiators and attempting to obtain commercial information to assist government policymakers is economic espionage at its most benign level and should be expected. The United States has yet to surmount the critical firewall of passing purloined information to domestic companies competing in the global marketplace. It is in this area that the most damage is done to the international trading system and where most major industrialized countries have operated.

Over the past 15 years, the FBI has chronicled numerous cases involving France, Germany, Japan, Israel, and South Korea. An FBI analysis of 173 nations found that 57 were covertly trying to obtain advanced technologies from U.S. corporations. Altogether, 100 countries spent some public funds to acquire U.S. technology. Former French Intelligence Director Pierre Marion put it succinctly when he told me, "In economics, we are competitors, not allies. America has the most technical information of relevance. It is easily accessible. So naturally your country will receive the most attention from the intelligence services."

Recent data indicate that American industry has felt the effects of such unwanted attention. A 1993 survey commissioned by the American Society for Industrial Security found a dramatic upswing in the theft of proprietary information from corporate America. The number of cases increased 260 percent since 1985; those with foreign involvement shot up fourfold. A 1993 study by R. J. Heffeman and Associates noted that an average of about three incidents every month involve the theft of proprietary information from American companies by foreign entities. These estimates are probably conservative. Companies prefer not to admit they have been victims. An admission can depress the price of their stock, ruin joint ventures, or scuttle U.S. government contracts.

The sort of espionage that threatens U.S. corporations varies with the national characteristics and culture of the perpetrators. France possesses a well-developed intelligence service, one of the most aggressive collectors of economic intelligence in the world. Using techniques often reminiscent of the KGB or spy novels, the French in recent years have planted moles in U.S. companies such as IBM, Texas Instruments, and Corning. Japan lacks a large formal intelligence service such as the CIA or Direction Générale de la Sécurité Extérieure (DGSE) but remains an active acquirer of business information. A public-private partnership has evolved between the Ministry for International Trade and Industry and the Japan External Trade Organization, supplementing and nurturing the already well-developed commercial intelligence networks created by Japanese corporations. These commercial networks rival the intelligence services of medium-sized nations. Matsushita's intelligence operations in the United States, for example, occupy two full floors of a Manhattan skyscraper, according to Herb Meyer, special assistant to CIA Director William Casey during the Reagan administration.

THE GAINS FROM THEFT

That so many states practice economic espionage is a testament to how profitable it is believed to be. Marion boasts that during his tenure, France won a $2 billion airplane deal with India thanks to the work of the DGSE. The late French spy chief Count De Marenches typified the French view when he wrote in his memoirs that economic espionage is "very profitable. . . . In any intelligence service worthy of the name you would easily come across cases where the whole year's budget has been paid for in full by a single operation."

Economic espionage threatens to unhinge certain post-Cold War goals such as arms control. On-site inspections, a necessity for some agreements, create institutional opportunities to engage in espionage. The Chemical Manufacturers Association, for example, fears that a chemical weapons treaty with a rigid on-site verification regime could subject 50,000 industrial sites in the United States to systematic international inspection and monitoring. Officials from any number of countries would have access to sensitive information about the American chemical industry, including plant layouts, production levels, perhaps even formulas.

Intelligence collection is a proper function of the state—protecting the national interest and informing statecraft. But collecting proprietary information and sharing it with domestic producers in an entirely different matter. That kind of economic espionage ought to be called what it is: at best a subsidy to well-connected domestic companies, at worst theft on a par with piracy. Economic espionage can grossly disrupt trade and corrode a nation's science and technology base. It is a parasitic act, relying on others to make costly investments of time and money. And to destroy the rewards of investment is to destroy the incentive to innovate.

THE QUAINT UNITED STATES

This is a decidedly minority point of view in the world marketplace. The rest of the world does not share the American capitalist ethos of vigorous but open competition. In both Europe and Asia, the American law that bars U.S. corporations from bribing foreign officials is viewed as quaint. Antitrust laws are likewise dismissed as an American idiosyncrasy. The semi-corporatist cultures of continental Europe and Asia view the state-business relationship very differently than does the United States. There is a popular old joke in American business circles: "What are the nine scariest words in the English language?" "I'm from the government and here to help you." This quip would hardly garner a smile in Tokyo, Paris, or Berlin.

Early indications are that Russia is more likely to embrace the semi-corporatist view than the American laissez-faire model. The transition from communism to capitalism means only that Russian intelligence will have a greater business orientation. Russian intelligence officials speak of nonbudgetary resources for defense and security policy. And as James Sherr of Oxford University pointed out in the winter 1994–95 *National Interest*, Russian intelligence officials are blurring the distinction between, if not merging, state policy and private pursuits. The newly created Federal Agency for Government

Communications and Information indicates this trend. Encompassing the former KGB's communication's assets, it is both a "strictly classified organization" and a business, with the right to contract with foreign investors, invest in foreign commercial entities, and set up companies abroad.

As economic strength in part replaces military might as the currency of national power, one can only expect this trend to continue. Trade talks have supplanted arms control as the most acrimonious, demanding, and headline—grabbing form of diplomacy, a certain sign of changing priorities. Consequently, most intelligence organizations around the globe are all too willing to serve as a competitive tool to protect budgets in lean times.

The current interregnum between the Cold War and the new era of economic conflict provides an opportunity finally to address this issue. Fissures or disagreements within the Western alliance no longer have the dangerous consequences they might have had at the height of the Cold War. The United States needs to treat economic espionage no only as an intelligence issue, but as the competitiveness and economic issue it has become. Until it does, the American response will be spotty, and the results minimal.

In 1991 the FBI began a quiet shift from the traditional focus of its counterintelligence policy. The country criteria list, which identified nations whose intelligence services needed watching, has been replaced by the national security threat list, which identifies key American technologies and industries that should be protected. This is an important first step. But even a successful counterintelligence operation will accomplish little unless there are consequences for those who are caught. In the past, ensnared thieves usually receive a slap on the wrist. When prosecuted in a court of law, it has usually been under statutes that make it illegal to transfer stolen goods across state lines. This is a difficult legal standard, particularly since some judges believe that information is not a good.

Changes in U.S. law and greater diplomatic fortitude offer the best hope for grappling with this problem. When Hitachi admitted in court that its employees tried to purchase stolen "Adirondack" computer design workbooks from IBM, the judge in 1983 fined the company a whopping $10,000. The U.S. government did not blink an eye. Several months after the trial, Hitachi reportedly won a major contract to equip the Social Security Administration with computers. (Ironically, the losing bid was submitted by IBM.) When it was disclosed that between the early 1970s and late 1980s the French DGSE had planted agents in Texas Instruments, IBM, and Corning and shared the purloined information with Compagnie des Machines Bull, the U.S. government merely sent a letter of diplomatic protest. Likewise, when Israeli intelligence officers stole valuable technological data from Illinois defense contractor Recon Optical, no penalties were imposed. Selling SDI computer software programs did get Ronald Hoffman a six-year prison term, but the Japanese companies that purchased the data faced no sanctions. This state of affairs should be unsatisfactory.

The United States should consider changing its privacy laws. The data protection laws of countries such as Austria, France, Switzerland, Belgium, Germany, New Zealand, Denmark, Norway, and Luxembourg define "persons" to include corporations for protection of privacy purposes. Their laws provide a much higher level of protection for corporate information, treating business secrets as equivalent to the private data of individual citizens. Under much more firmly defined privacy statutes, thieves could be prosecuted.

When diplomats are involved, the United States should be as aggressive and vigorous as it was when dealing with Soviet spying, or at least as firm as France was last January. Instead, diplomatic personnel have simply been asked to leave quietly, a gesture with little punitive effect. Foreign corporations involved in the theft of American technology or corporate information should face real monetary costs for their crimes. Until there is a price to be paid, companies will not think twice about purchasing and using stolen information, and foreign governments will not blink at stealing American proprietary business information.

How the United States chooses to deal with this problem will set the tone internationally. Some, such as former CIA Director Stansfield Turner, have proposed an American economic espionage program, in effect imitating foreign competitors. But this path is fraught with peril. There is no groundswell of support for such a course in either corporate America or the intelligence community. Ask intelligence professionals what they think about the idea and they are likely to tell you, "I will risk my life for America, but not General Motors." An economic espionage program could also have a corrupting influence on the U.S. intelligence community, as officials might be enticed by bribes from companies seeking particularly useful information. Likewise, American companies are nervous about getting entangled with the intelligence world and the strings that are likely to be attached to any such program. Rather than wanting to imitate its competitors, corporate America seeks a level playing field and protection from industrial thieves.

The goal of the United States should be a world in which governments do not try to outspend one another on stealing each other's corporate secrets. But that goal cannot be reached until the United States decides to grow up and face down the threat. Ignoring economic espionage will not make it go away.

Mr. KOHL. Mr. President, today, we pass the Economic Espionage Act, which is based upon legislation drafted by Senator SPECTER and me and, on the House side, by Representatives MCCOLLUM and SCHUMER. In a Congress marked by so much partisanship, this legislation marks a significant bipartisan accomplishment. With this new law, we penalize the theft of vital economic information.

Since the end of the cold war, our old enemies and our traditional allies have been shifting the focus of their spy apparatus. Alarmingly, the new target of foreign espionage is our industrial base. But for too many years, we were complacent and did not heed these warnings. And we left ourselves vulnerable to the ruthless plundering of our country's vital information. We did not address this new form of espionage—a version of spying as dangerous to our national well-being as any form of classic espionage. Today, that complacency ends.

Mr. President, this legislation is crucial. Most Americans probably do not realize that anyone with the wherewithal to do it can walk out of a company with a computer disk full of its most important manufacturing information and sell that information to the highest bidder with virtual impunity—and no criminal penalties.

This problem is even worse when foreign governments have specifically focussed on American companies in order to steal information from them. American companies are not prepared or equipped to fight off this kind of systematic targeting.

The executive vice president of Corning, James Riesbeck, has said that:

> It is important to understand that State-sponsored industrial espionage is occurring in the international business community. It is very difficult for an individual corporation to counteract this activity. The resources of any corporation are no match for industrial espionage that is sanctioned and supported by foreign governments.

A report of the National Counterintelligence Center [NCIC] in 1995 indicated that biotechnology, aerospace, telecommunications, computer software, transportation, advanced materials, energy research, defense, and semiconductor companies are all top targets for foreign economic espionage. These sectors are aggressively targeted according to the report. That report identified 20 different methods used to conduct industrial espionage. The traditional methods include recruiting an agent and then inserting the agent into the target company, or breaking into an office to take equipment and information. According to the report, computer intrusions, telecommunications targeting and intercept, and private-sector encryption weaknesses account for the largest portion of economic and industrial information lost by U.S. corporations.

But even as American companies are attempting to respond to foreign espionage, they also have to address theft by insiders. A survey by the American Society for Industrial Security [ASIS] of 325 companies in 1995 found that almost half of them had experienced trade secret theft of some sort during the previous 2 years. They also reported a 323-percent increase in the number of incidents of intellectual property loss. A 1988 National Institute of Justice study of trade secret theft in high-technology industries found that 48 percent of 150 research and development companies surveyed had been the victims of trade secrets theft. Almost half of the time the target was research and development data while 38 percent of the time the target was new technology. Forty percent of the victims found out about the theft from their competitors.

Norman Augustine, the president of Lockheed Martin Corp., told us at our February hearings that a recent survey of aerospace companies revealed that

100 percent of them believe that a competitor, either domestic or international, has used intelligence techniques against them.

And, Mr. President, make no mistake about it, economic espionage costs our country dearly. In 1992, when a representative of IBM testified at a House hearing on this issue, he told us that economic espionage had cost his company billions of dollars. The NCIC report concluded that industry victims have reported the loss of hundreds of millions of dollars, lost jobs, and lost market share. The ASIS survey concluded that the potential losses could total $63 billion a year.

Because of the gap in our laws, Senator SPECTER and I introduced two companion measures that became the Economic Espionage Act earlier this year. This legislation will be used to go after the foreign intelligence services that take aim at American companies and at the people who walk out of businesses with millions of dollars worth of information.

I will only briefly explain what we have done here because the managers' statement and the House and Senate committee reports fully and completely describe this act. This legislation makes it illegal to steal trade secrets from companies. It enhances the penalties when the theft is at the behest of a foreign government. With the help of Senator HATCH and Representatives MCCOLLUM and SCHUMER, we have carefully drafted these measures to ensure that they can only be used in flagrant and egregious cases of information theft. Moreover, trade secrets are carefully defined so that the general knowledge and experience that a person gains from working at a job is not covered.

Mr. President, we do not want this law used to stifle the free flow of information or of people from job to job. But we built in a number of safeguards to prevent exactly these problems. They are elaborated on in the managers' statement and our committee reports.

Mr. President, I ask unanimous consent that a copy of the managers' statement be printed in the RECORD. It reflects our understanding on this measure.

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

MANAGERS' STATEMENT FOR H.R. 3723, THE ECONOMIC ESPIONAGE BILL

This legislation is based upon two bills, S. 1556, "The Industrial Espionage Act of 1996," and S. 1557, "The Economic Security Act of 1996," which were introduced by Senators SPECTER and KOHL. This Managers' Statement is intended to clarify portions of the legislation and to supplement the Committee reports already issued on these two measures. It also explains how the House and Senate version of the legislation were reconciled.

DIFFERENCE BETWEEN SECTIONS 1831 AND 1832

This legislation includes a provision penalizing the theft trade secrets (Sec. 1832) and a second provision penalizing that theft when it is done to benefit a foreign government, instrumentality, or agent (Sec. 1831). The principle purpose of this second (foreign government) provision is not to punish conventional commercial theft and misappropriation of trade secrets (which is covered by the first provision). Thus, to make out an offense under the economic espionage section, the prosecution must show in each instance that the perpetrator intended to or knew that his or her actions would aid a foreign government, instrumentality, or agent. Enforcement agencies should administer this section with its principle purpose in mind and therefore should not apply section 1831 to foreign corporations when there is no evidence of foreign government sponsored or coordinated intelligence activity.

This particular concern is borne out in our understanding of the definition of "foreign instrumentality" which indicates that a foreign organization must be "substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government or subdivision thereof." Although the term "substantially" is not specifically defined, it is a relative term that connotes less than total or complete ownership, control, sponsorship, command, management, or domination. Substantial in this context, means material or significant, not technical or tenuous. We do not mean for the test of substantial control to be mechanistic or mathematical. The simple fact that the majority of the stock of a company is owned by a foreign government will not suffice under this definition, nor for that matter will the fact that a foreign government only owns 10 percent of a company exempt it from scrutiny. Rather the pertinent inquiry is whether the activities of the company are, from a practical and substantive standpoint, foreign government directed.

To make out a case under these two provisions (sections 1831 and 1832), the prosecution would have to show that the accused knew or had reason to know that a trade secret had been stolen or appropriated without authorization. This threshold separates conduct that is criminal from that which is innocent. Thus, for example, these sections would not give rise to a prosecution for legitimate economic collection or reporting by personnel of foreign governments or international financial institutions, such as the World Bank, because such legitimate collection or reporting would not include the collection or reporting of trade secrets that had been stolen, misappropriated or converted without authorization.

WITHOUT AUTHORIZATION

Several federal statutes already include the requirement that information be taken "without authorization." The most notable is 18 U.S.C. §1030, which is amended in this measure by the National Information Infrastructure Protection Act introduced by Senators Leahy, Kyl and Grassley. That provision essentially deals with authorization in relation to computer systems. However, in this legislation the nature of authorization may be slightly different since this measure involves information "whether or how stored." But the principle remains the same: authorization is the permission, approval, consent, or sanction of the owner.

PARALLEL DEVELOPMENT NOT COVERED

It is important to note that a person who develops a trade secret is not given an absolute monopoly on the information or data that comprises a trade secret. For example, if a company discovers that a particular manufacturing process must be conducted at a certain ambient temperature and that a more than 10 percent deviation from that temperature will compromise the process, that company does not have the exclusive right to manufacture the product at the key temperature (assuming that this is not otherwise patented or protected by law). Other companies can and must have the ability to determine the elements of a trade secret through their own inventiveness, creativity and hard work. As the Supreme Court noted in *Kewanee Oil Co.* v. *Bicron Corp.*, 416 U.S. 470 (1974): "If something is to be discovered at all very likely it will be discovered by more than one person. . . . Even were an inventor to keep his discovery completely to himself, something that neither the patent nor trade secret laws forbid, there is a high probability that it will be soon independently developed. If the invention, though still a trade secret, is put into public use, the competition is alerted to the existence of the inventor's solution to the problem and may be encouraged to make an extra effort to independently find the solution this known to be possible." Id. at 490-91.

This legislation does not in any way prohibit companies, manufacturers, or inventors from using their skills, knowledge and experience to solve a problem or invent a product that they know someone else is also working on. Thus, parallel development of a trade secret cannot and should not constitute a violation of this statute. This includes the situation in which an individual inventor, unsolicited, sends his or her material to a manufacturer even as the company itself is in the midst of its own parallel development. In the first place, this wholesale disclosure of material likely breaches the requirement that a trade secret owner take reasonable measures to protect the information's confidentiality. But more importantly, many companies regularly receive such ideas and inventions and do not use them. Some of these unsolicited ideas and inventions may overlap with work being done within the company already. Both the individual inventor and the company are conducting parallel work, pursuing the same line of inquiry. Neither can be subject to penalty under this law.

REVERSE ENGINEERING

Some people have asked how this legislation might affect reverse engineering. Reverse engineering is a broad term that encompasses a variety of actions. The important thing is to focus on whether the accused has committed one of the prohibited acts of this statute rather than whether he or she has "reverse engineered." If someone has lawfully gained access to a trade secret and can replicate it without violating copyright, patent or this law, then that form of "reverse engineering" should be fine. For example, if a person can drink Coca-Cola and, because he happens to have highly refined taste buds, can figure out what the formula is, then this legislation cannot be used against him. Likewise, if a person can look at a product and, by using their own general skills and expertise, dissect the necessary attributes of the product, then that person should be free from any threat of prosecution.

DEFINITION OF TRADE SECRETS

Unlike patented material, something does not have to be novel or inventive, in the patent law sense, in order to be a trade secret. Of course, often it will be because an owner

will have a patented invention that he or she has chosen to maintain the material as a trade secret rather than reveal it through the patent process. Even if the material is not novel in the patent law sense, some form of novelty is probably inevitable since "that which does not possess novelty is usually known; secrecy, in the context of trade secrets implies at least minimal novelty." *Kewanee Oil Co.*, 416 U.S. at 476. While we do not strictly impose a novelty or inventiveness requirement in order for material to be considered a trade secret, looking at the novelty or uniqueness of a piece of information or knowledge should inform courts in determining whether something is a matter of general knowledge, skill or experience.

Although we do not require novelty or inventiveness, the definition of a trade secret includes the provision that an owner have taken reasonable measures under the circumstances to keep the information confidential. We do not with this definition impose any requirements on companies or owners. Each owner must assess the value of the material it seeks to protect, the extent of a threat of theft, and the ease of theft in determining how extensive their protective measures should be. We anticipate that what constitutes reasonable measures in one particular field of knowledge or industry may vary significantly from what is reasonable in another field or industry. However, some common sense measures are likely to be common across the board. For example, it is only natural that an owner would restrict access to a trade secret to the people who actually need to use the information. It is only natural also that an owner clearly indicate in some form or another that the information is proprietary. However, owners need not take heroic or extreme measures in order for their efforts to be reasonable.

GENERAL KNOWLEDGE NOT COVERED BY DEFINITION OF TRADE SECRETS

In the course of reconciling the Senate and House versions of this legislation, we eliminated the portion of the definition of trade secret that indicated that general knowledge, skills and experience were not included in the meaning of that term. Its elimination from the statutory language does not mean that general knowledge can be a trade secret. Rather, we believed that the definition of trade secrets in itself cannot include general knowledge. Thus, it was unnecessary and redundant to both define what does and what does not constitute a trade secret.

Our reason initially for putting the exception in was to state are clearly as possible that this legislation does not apply to innocent innovators or to individuals who seek to capitalize on their lawfully developed knowledge skill or abilities. Employees, for example, who change employers or start their own companies should be able to apply their talents without fear of prosecution because two safeguards against overreaching are built into the law.

First, protection is provided by the definition of "trade secret" itself. The definition requires that an owner take objectively reasonable, proactive measures, under the circumstances, to protect the information. If, consequently, an owner fails to safeguard his or her trade secret, then no one could be rightfully accused of misappropriating it. Most owners do take reasonable measures to protect their trade secrets, thereby placing employees and others on clear notice of the discreet, proprietary nature of the information.

In addition, a prosecution under this statute must establish a particular piece of information that a person has stolen or misappropriated. It is not enough to say that a person has accumulated experience and knowledge during the course of his or her employ. Nor can a person be prosecuted on the basis of an assertion that he or she was merely exposed to a trade secret while employed. A prosecution that attempts to tie skill and experience to a particular trade secret should not succeed unless it can show that the particular material was stolen or misappropriated. Thus, the government cannot prosecute an individual for taking advantage of the general knowledge and skills or experience that he or she obtains or comes by during his tenure with a company. Allowing such prosecutions to go forward and allowing the risk of such charges to be brought would unduly endanger legitimate and desirable economic behavior.

As the Pennsylvania Supreme Court noted in *Spring Steels* v. *Molloy*, 400 Pa. 354, 363 (1960):

"It is not a phenomenal thing in American business life to see an employee, after a long period of service, leave his employment and start a business of his own or in association with others. And it is inevitable in such a situation, where the former employee has dealt with customers on a personal basis that some of those customers will want to continue to deal with him in [that] new association. This is . . . natural, logical and part of human fellowship . . ."

This legislation does not criminalize or in any way hamper these natural incidents of employment. The free and unfettered flow of individuals from one job to another, the ability of a person to start a new business based upon his or her experience and expertise, should not be injured or chilled in any way by this legislation. Individuals must have the opportunity to take advantage of their talents and seeks and accepts other employments that enables them to profit from their abilities and experience. And companies must have the opportunity to employ these people. This measure attempts to safeguard an individual's career mobility and at the same time to preserve the trade secrets that underpin the economic viability of the very company that would offer a person a new job.

The second safeguard is provided by the bill's use of the term "knowingly." For a person to be prosecuted, the person must know or have a firm belief that the information he or she is taking is in fact proprietary. Under theft statutes dealing with tangible property, normally, the thief knows that the object he has stolen is indeed a piece of property that he has no lawful right to convert for his personal use. The same principle applies to this measure—for someone to be convicted under this statute he must be aware or substantially certain that he is misappropriating a trade secret (although a defense should succeed if it is proven that he actually believed that the information was not proprietary after taking reasonable steps to warrant such belief). A person who takes a trade secret because of ignorance, mistake or accident cannot be prosecuted under the Act.

This requirement should not prove a great barrier to legitimate and warranted prosecutions. Most companies go to considerable pains to protect their trade secrets. Documents are marked proprietary; security measures put in place; and employees often sign confidentiality agreements.

MAINTAINING CONFIDENTIALITY

We have been deeply concerned about the efforts taken by courts to protect the confidentiality of a trade secret. It is important that in the early stages of a prosecution the issue whether material is a trade secret not be litigated. Rather, courts should, when entering these orders, always assume that the material at issue is in fact a trade secret.

VICTIM COMPENSATION

We are also concerned that victims of economic espionage receive compensation for their losses. This legislation incorporates through reference existing law to provide procedures to be used in the detention, seizure, forfeiture, and ultimate disposition of property forfeited under the section. Under these procedures, the Attorney General is authorized to grant petitions for mitigation or remission of forfeiture and for the restoration of forfeited property to the victims of an offense. The Attorney General may also take any other necessary or proper action to protect the rights of innocent people in the interest of justice. In practice, under the forfeiture laws, victims are afforded priority in the disposition of forfeited property since it is the policy of the Department of Justice to provide restitution to the victims of criminal acts whenever permitted to do so by the law. Procedures for victims to obtain restitution may be found at Section 9 of Title 28, Code of Federal Regulations.

In addition to requesting redress from the Attorney General, any person—including a victim—asserting an interest in property ordered forfeited may petition for a judicial hearings to adjudicate the validity of the alleged interest and to revise the order of forfeiture. Additionally, forfeitures are subject to a requirement of proportionality under the Eighth Amendment; that is, the value of the property forfeited must not be excessively disproportionate to the crimes in question.

Finally, we have required that the Attorney General report back to us on victim restitution two and four years after the enactment of this legislation. We have heard from some companies that they only rarely obtain restitution awards despite their eligibility. We wish to carefully monitor restitution to ensure that the current system is working well and make any changes that may be necessary.

FINES PROVISION

In the original Senate version of this measure, we included a provision allowing courts to impose fines of up to twice the value of the trade secret that was stolen. This specific provision was eliminated because it was unnecessary in light of 18 U.S.C. §3571(d). We have not used the specific exemption available under 18 U.S.C. §3571(e). We, therefore, fully expect that courts will take full advantage of the provision in 18 U.S.C. §3571(d) allowing for fines of up to twice the gain or loss resulting from the theft of trade secrets and that courts will opt for the larger of the fines available under 18 U.S.C. §3571(d) or the fines provisions of this statute.

DEPARTMENT OF JUSTICE OVERSIGHT

The Senate version of this measure included a requirement that all prosecutions brought under the statute receive the prior approval of the Attorney General, the Deputy Attorney General or the head of the Department of Justice's Criminal Division. That provision was eliminated in the measure that the House returned to us. We have not reinserted it based on the assurances of the Department of Justice. The Department of Justice will insert a requirement in the

U.S. Attorney's Manual that prosecutions continue to be approved and strictly supervised by the Executive Office of the United States Attorney. The Attorney General has written a letter to us to that effect which we will insert into the record. We expect to review all cases brought under this Act in several years to ensure that the requirement is being enforced and to determine if it needs to remain in place.

Mr. HATCH. Mr. President, I rise in support of H.R. 3723, the Economic Espionage Act of 1996. This bill makes the theft or unlawful appropriation and conversion of "proprietary economic information" a Federal felony. It is an important bill to all of Federal law enforcement, and I encourage my colleagues to support it.

In today's technology revolution, the Congress has recognized the need to develop meaningful legislation that has real teeth to stop a burgeoning criminal enterprise. Such enterprise targets the cutting edge research and development of our Nation's industries, often on behalf of a competitor or foreign state. Until now, there has been no meaningful deterrent to such activity. Victims were often forced to resort to State civil remedies as their only redress. I am confident that all of my colleagues will agree that H.R. 3723, a bill which we have crafted and has undergone minor House modification, is a strong and meaningful deterrent to criminals considering engaging in economic espionage.

There is one provision in the bill originally passed by the Senate but deleted from the House which requires clarification. The original bill passed by the Senate contained a provision that required Attorney General approval prior to the initiation of a prosecution under this legislation. The bill returned to the Senate by the House deleted this requirement. It was my intent to attach an amendment to this bill, reinserting the prior authorization requirement. After numerous discussions with administration and industry officials, a compromise has been reached which will allow this bill to be passed by the full Senate as approved by the House.

We have a letter from the Attorney General which memorializes an agreement we have made concerning this prior authorization requirement.

This agreement provides that the Department of Justice shall implement regulations that require that an indictment can be pursued under this legislation only upon the express prior approval of the Attorney General, Deputy Attorney General, or Assistant Attorney General-Criminal Division. This agreement shall remain in effect for a period of 5 years from enactment. During that timeframe, the Attorney General will be required to report to the Senate or House Judiciary Committees, any prosecutions carried out under this bill which did not receive such prior authorization. It shall also subject the U.S. Attorney or Justice Department official authorizing such prosecution, to appropriate disciplinary sanctions.

I am confident that the Department of Justice will act in good faith and carry out its terms.

I would like to mention three other provisions included in this bill. The first, included as a floor amendment by myself and Senator KOHL, authorizes $100 million in grants to the Boys and Girls Clubs of America to establish clubs in public housing and other distressed areas across the country. The Boys and Girls Clubs have an outstanding track record of reducing crime and drug use in the communities they serve, and this legislation will help them extend their reach into the communities that need them most.

Second, I am pleased that this bill included another amendment I offered during Senate consideration, transferring to the Attorney General custody of certain Federal inmates hospitalized at St. Elizabeth's hospital. This provision will ensure that these persons, hospitalized because of not guilty by reason on insanity verdicts in Federal courts, receive appropriate care in safe, secure facilities.

Finally, I would like to note that this legislation includes an amended version of technical corrections legislation to fix errors that have, over time, crept into the Federal criminal code. The continued integrity of the criminal laws depends on making these corrections from time to time, and I am pleased that we have addressed this matter here.

For these reasons, I strongly urge all of my colleagues to fully support H.R. 3723.

I ask unanimous consent that the letter I referenced earlier from the Attorney General be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, October 1, 1996.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: Thank you for your support of the Economic Espionage Act of 1996 ("Act"). The need for this law cannot be understated as it will close significant gaps in federal law, thereby protecting proprietary economic information and the health and competitiveness of the American economy.

The Department shares your concerns that the legislation be implemented in accordance with the intent of Congress and therefore will require, for a period of five years after implementation of the Act, that the United States may not file a charge under Chapter 90, or use a violation of Chapter 90 as a predicate offense under any other law, without the personal approval of the Attorney General, the Deputy attorney General, or the Assistant Attorney General for the Criminal Division (or the acting official in each of these positions if a position is filled by the Acting official). This requirement will be implemented by published regulation.

Violations of such regulations will be appropriately sanctionable. Any such violations will be reported by the Attorney General to the Senate and House Judiciary Committees.

Once again, thank you for your leadership in this critical area.

Sincerely,

JANET RENO.

Mr. LEAHY. Mr. President, I am delighted that the Senate is today taking the important step of passing the Economic Espionage Act and the National Information Infrastructure Protection Act of 1996 [NII Protection Act].

The NII Protection Act, which I have sponsored with Senators KYL and GRASSLEY, was sent to the House as S. 982, after passing the Senate unanimously on September 18, 1996. The NII Protection Act has come back to the Senate for final passage as part of a package of bills including H.R. 3723, the Economic Espionage bill. These bills are complimentary. The economic espionage bill will impose criminal penalties on those who steal valuable trade secrets from the U.S. Government and those doing business in our country, without regard to the means used to effect the crime.

Spying on American companies in order to obtain their trade secrets and confidential proprietary information is—to put it bluntly—stealing. Although the estimates of how much this stealing costs our Nation's business and our economy are rough, the range is in the billions of dollars per year.

Unfortunately, the problem appears to be growing. The increasing dependence of American industry on computers to store information and to facilitate communications with customers, suppliers and farflung subsidiaries, presents special vulnerabilities for the theft of sensitive proprietary information.

I have long been concerned about this vulnerability. That is why I worked with the Department of Justice, and my colleagues, Senators KYL and GRASSLEY, on introduction of the National Information Infrastructure Protection Act. This bill will increase protection for computers, both government and private, and the information on those computers, from the growing threat of computer crime. Our dependency on computers and the growth of the Internet are both integrally linked to people's confidence in the privacy, security, and reliability of computer networks. I have worked over the past decade to make sure the laws we have in place foster both privacy and security, and provide a sound foundation for new communications technologies to flourish.

Both the NII Protection Act and the Economic Espionage Act reflect significant efforts to better protect our

industrial lifeblood—the imaginative ideas and the special know-how that give American companies the edge in global competition.

The NII Protection Act will help safeguard the privacy, security and reliability of our national computer systems and networks and the information stored in, and carried on, those networks. Those systems and networks are vulnerable to the threat of attack by hackers, high-technology criminals and spies.

Every technological advance provides new opportunities for legitimate uses and the potential for criminal exploitation. Existing criminal statutes provide a good framework for prosecuting most types of computer-related criminal conduct. But as technology changes and high-technology criminals devise new ways to use technology to commit offenses we have yet to anticipate, we must be ready to readjust and update our Criminal Code.

The facts speak for themselves—computer crime is on the rise. The week before Senate passage of the NII Protection Act, on September 12, a computer hacker attack, which shut down a New York Internet access provider with thousands of business and individual customers, made front page news, and revealed the vulnerability of every network service provider to such an attack. The morning after Senate passage of this legislation, on September 19, computer hackers forced the CIA to take down an agency Web site because obscenities and unauthorized text and photograph changes had been made to the site and unauthorized links had been established between the CIA Web site and other sites. The Computer Emergency and Response Team [CERT] at Carnegie-Mellon University reports that over 12,000 Internet computers were attacked in 2,412 incidents in 1995 alone. A 1996 survey conducted jointly by the Computer Security Institute and the FBI showed that 42 percent of the respondents sustained an unauthorized use or intrusion into their computer systems in the past 12 months.

While the NII Protection Act may not address every form of computer crime or mischief, it closes a number of significant gaps in the computer fraud and abuse statute. This legislation would strengthen law enforcement's hands in fighting crimes targeted at computers, networks, and computerized information by, among other things, designating new computer crimes, and by extending protection to computer systems used in foreign or interstate commerce or communications.

For example, while our current statute, in section 1030(a)(2), prohibits misuse of a computer to obtain information from a financial institution, it falls short of protecting the privacy and confidentiality of information on computers used in interstate or foreign commerce and communications. This gap in the law has become only more glaring as more Americans have connected their home and business computers to the global Internet.

This is not just a law enforcement issue, but an economic one. Breaches of computer security result in direct financial losses to American companies from the theft of trade secrets and proprietary information. A December 1995 report by the Computer Systems Policy Project, comprised of the CEO's from 13 major computer companies, estimates that financial losses in 1995 from breaches of computer security systems ranged from $2 billion to $4 billion. The report predicts that these numbers could rise in the year 2000 to $40 to $80 billion worldwide. The estimated amount of these losses is staggering.

The NII Protection Act would extend the protection already given to the computerized information of financial institutions and consumer reporting agencies, to computerized information held on computers used in interstate or foreign commerce on communications, if the conduct involved interstate or foreign communications. The provision is designed to protect against the interstate or foreign theft of information by computer.

Computer hackers have accessed sensitive Government data regarding Operation Desert Storm, penetrated NASA computers, and broken into Federal courthouse computer systems containing confidential records. These outside hackers are subject to criminal prosecution under section 1030(a)(3) of the computer fraud and abuse statute. Yet, this statute contains no prohibition against malicious insiders: Those government employees who abuse their computer access privileges by snooping through confidential tax returns, or selling confidential criminal history information from the National Crime Information Center [NCIC]. The NCIC is currently the Nation's most extensive computerized criminal justice information system, containing criminal history information, files on wanted persons, and information on stolen vehicles and missing persons.

I am very concerned about continuing reports of unauthorized access to highly personal and sensitive Government information about individual Americans, such as NCIC data. For example, a "Dear Abby" column that appeared on June 20, 1996 in newspapers across the country carried a letter by a woman who claimed her in-laws "ran her name through the FBI computer" and, apparently, used access to the NCIC for personal purposes.

This published complaint comes on the heels of a General Accounting Office [GAO] report presented on July 28, 1993, before the House Government Operations Committee, Subcommittee on Information, Justice, Agriculture, and Transportation, on the abuse of NCIC information. Following an investigation, GAO determined that NCIC information had been misused by "insiders"—individuals with authorized access—some of whom had sold NCIC information to outsiders and determined whether friends and relatives had criminal records. The GAO found that some of the misuse jeopardized the safety of citizens and potentially jeopardized law enforcement personnel. Yet, no federal or state laws are specifically directed at NCIC misuse and most abusers of NCIC were not criminally prosecuted. GAO concluded that Congress should enact legislation with strong criminal sanctions for the misuse of NCIC data.

This bill would criminalize these activities by amending the privacy protection provision in section 1030(a)(2) and extending its coverage to Federal Government computers. If the information obtained is of minimal value, the penalty is only a misdemeanor. If, on the other hand, the offense is committed for purposes of commercial advantage or private financial gain, for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any State, or if the value of the information obtained exceeds $5,000, the penalty is a felony.

The current statute, in section 1030(a)(5), protects computers and computer systems from damage caused by either outside hackers or malicious insiders "through means of a computer used in interstate commerce or communications." It does not, however, expressly prohibit the transmission of harmful computer viruses or programs from abroad, even though, a criminal armed with a modem and a computer can wreak havoc on computers located in the United States from virtually anywhere in the world. This is a significant challenge in fighting cybercrime: there are no borders or passport checkpoints in cyberspace. Communications flow seamlessly through cyberspace across datelines and the reach of local law enforcement.

Indeed, we have seen a number of examples of computer crimes directed from abroad, including the 1994 intrusion into the Rome Laboratory at Griffess Air Force Base in New York from the United Kingdom and the 1996 intrusion into Harvard University's computers from Buenos Aires, Argentina.

Additionally, the statute falls short of protecting our Government and financial institution computers from intrusive codes, such as computer "viruses" or "worms." Generally, hacker intrusions that inject "worms" or "viruses" into a Government or financial institution computer system, which is not used in interstate communications, are not Federal offenses. The legislation would change that limitation and

extend Federal protection from intentionally damaging viruses to Government and financial institution computers, even if they are not used in interstate communications.

The NII Protection Act would close these loopholes. Under the legislation, outside hackers—including those using foreign communications—and malicious insiders face criminal liability for intentionally damaging a computer. Outside hackers who break into a computer could also be punished for any reckless or other damage they cause by their trespass.

The current statute protects against computer abuses that cause computer "damage," a term that is defined to require either significant financial losses or potential impact on medical treatment. Yet, the NII and other computer systems are used for access to critical services such as emergency response systems, air traffic control, and the electrical power systems. These infrastructures are heavily dependent on computers. A computer attack that damages those computers could have significant repercussions for our public safety and our national security. The definition of "damage" in the Computer Fraud and Abuse statute should be sufficiently broad to encompass these types of harm against which people should be protected. The NII Protection Act addresses this concern and broadens the definition of "damage" to include causing physical injury to any person and threatening the public health or safety.

Finally, this legislation address a new and emerging problem of computer-age blackmail. This is a high-technology variation on old fashioned extortion. One case has been brought to my attention in which a person threatened to crash a computer system unless he was given free access to the system and an account. One can imagine situations in which hackers penetrate a system, encrypt a database and then demand money for the decoding key. This new provision would ensure law enforcement's ability to prosecute modern-day blackmailers, who threaten to harm or shut down computer networks unless their extortion demands are met.

Confronting cybercrime with up-to-date criminal laws, coupled with tough law enforcement, are critical for safeguarding the privacy, confidentiality, and reliability of our critical computer systems and networks. I commend the Attorney General and the prosecutors within the Department of Justice who have worked diligently on this legislation and for their continuing efforts to address this critical area of our criminal law.

In sum, the NII Protection Act will provide much needed protection for our Nation's critical information infrastructure by penalizing those who abuse computers to damage computer networks, steal classified and valuable computer information, and commit other crimes on-line.

Mr. NICKLES. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

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

ORDERS FOR THURSDAY, OCTOBER 3, 1996

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:00 a.m. on Thursday, October 3rd; further, that immediately following the prayer the Journal of proceedings be deemed approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that the Senate then resume consideration of the conference report to accompany H.R. 3539, the FAA authorization bill.

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

PROGRAM

Mr. NICKLES. Mr. President, under the previous order, there will be 1 hour of debate time starting at 9 a.m. tomorrow morning with the cloture vote to occur on the FAA conference report at 10 a.m. Obviously, that rollcall vote is very important. And I urge the attendance of all my colleagues tomorrow.

I also hope that, if cloture is invoked, the Senate could then proceed to adoption of the FAA conference report in a timely fashion.

Rollcall votes are, therefore, expected throughout the day on Thursday on the FAA conference report, or any other items cleared for action. If action is completed on the FAA conference report and various other important matters are cleared, I would fully expect the Senate would adjourn sine die tomorrow. I urge the cooperation of all Members in order to achieve that goal tomorrow.

I also urge my colleagues to cooperate, and hopefully we will be successful in passing the parks bill that so many people have spoken on behalf of that I think in large part we have pretty well come to an agreement on. And it is very important, in this Senator's opinion, that we pass that bill tomorrow.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. NICKLES. I am happy to yield.

OMNIBUS PARKS LEGISLATION

Mr. WARNER. May I say that I very much appreciate the leadership by the Senator from Oklahoma and Senator LOTT with respect to the parks bill. It is a matter of tremendous interest to my State. I am heartened by the news that this in all likelihood will become law.

It is interesting to think, when is the last time the Senate passed such a major piece of legislation relating to the parks? It is heartening to this Senator.

I thank our distinguished acting leader, and I thank the Chair.

Mr. NICKLES. Mr. President, I thank my colleague from Virginia. And I appreciate the emphasis. He is one of many Senators that has been urging us to complete action on the parks bill. I know that there are several items that are important to the State of Virginia.

We have had contacts from our colleagues in Colorado, including Senator CAMPBELL, who has a broken arm, but, yet, he feels that this is very, very important to his State; Senators from California; and others.

I believe that there are 41 States that have projects in this bill. We are very close. I know Senator MURKOWSKI has been working with the administration. They don't have everything resolved. I will admit that up front. But hopefully we will be successful in wrapping that bill up tomorrow. Hopefully the House will concur, and we can be successful in passing a very important parks bill.

Mr. WARNER. Mr. President, I am sure the distinguished leader would acknowledge the work that Chairman MURKOWSKI has performed in reconciling the interests of this bill.

Mr. NICKLES. Mr. President, the Senator from Virginia is exactly correct. I worked for hours today alone with the Senator from Alaska. But, as the Senator from Virginia knows, the Senator from Alaska has been working on this bill for years—for years. And there are countless hours that have gone into putting this package together. It is not something that has been hurried up and put together in the last days. This is a culmination. It has a lot of bills together.

Some may ask, "Why is that?" Senators objected to having any bill go through. So all of the bills ended up combined. That is unfortunate. We should not legislate that way. But the objection, frankly, was on the Democrat side of the aisle. It should not have happened. Hopefully in the future we will be able to pass land bills individually as they are reported out of the authorizing committees. It didn't happen in this case. We will have to work hard to see that it does not happen in the future.

But most all of these projects that are in this bill have been hashed out for months, most of which have unanimous support in the Senate. And my guess is that when we get to a vote on the bill—we may well vote on it tomorrow. We may pass it by voice vote. If we have a recorded vote, I would venture to say that we would have 90-some percent of the Senators voting in favor of that package.

So, hopefully we will get it through both Houses and have it for the President's signature.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. NICKLES. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment as under the previous order.

There being no objection, the Senate, at 6:22 p.m., adjourned until Thursday, October 3, 1996, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1996:

POSTAL RATE COMMISSION

DANIEL R. STANLEY, OF KANSAS, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING OCTOBER 14, 2000, VICE WAYNE ARTHUR SCHLEY, TERM EXPIRED.

EXTENSIONS OF REMARKS

HONORING THE SECOND BAPTIST CHURCH

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to pay tribute to the Second Baptist Church, of Fall Church, VA, and to their esteemed pastor, James E. Browne. The Second Baptist Church is celebrating its 122d anniversary and their 20th anniversary of guidance under Reverend Browne.

The Second Baptist Church started as a two-room log cabin by Elder Hiram Reed and Pastor Robert Johnson in 1870, and flourished over the past century into a beautiful church complete with a bell tower and artistic windows. This church has played an important role in the community and for its congregation by providing a number of activities and services. They presently have an active church ministry; dedicated deacons and deaconesses; an excellent music department; a children's choir—Rosebuds; a youth choir—Choraliers; a contemporary choir—Golden Echoes; a chancel choir—Senior; a men's chorus; a gospel choir; the W.E. Costner Memorial Bell Choir; a productive education division; a dynamic youth department; and a bible study class.

The Second Baptist Church has been blessed for 20 years with Reverend Browne's religious teachings. In addition to his work at the Second Baptist Church, he served as moderator of the Northern Virginia Baptist Association for 5 years. Reverend Browne is supported by his lovely wife, Mrs. Hazel Browne, a deaconess, a member of the senior choir and the president of the Missionary Society. Also by his side is his daughter, Mrs. Lillian Fernanders, organist for the church.

Mr. Speaker, I know my colleagues will join me in saluting the Second Baptist Church, Reverend Browne, and its congregation as they celebrate their rich heritage on their very special anniversary. We wish them best for continued success in the future.

CONGRATULATIONS TO AMY ASPINWALL, GRAND PRIZE WINNER OF THE HAWAII CARPENTERS UNION VOTE 1996 ESSAY CONTEST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to recognize the work of Amy Aspinwall of Mililani, HI, and to congratulate her on winning the grand prize of the Hawaii Carpenters Union "Vote '96—Works for Us" essay contest. Amy, a student at Mililani High School, is the daughter of unit 7 member Angel Aspinwall. Her essay addressed the issue of why voting is important to our union family.

I was pleased to serve as one of the judges in this contest dedicated to promoting the idea of participation in our electoral process. Amy's work was one of many fine entries into this contest. Part of her award is a trip to Wasington where she will get to see her Federal Government at work.

Congratulations Amy. I am pleased to submit for the RECORD the winning essay by Amy Aspinwall:

WHY VOTING IS IMPORTANT TO OUR UNION FAMILY

Imagine living in a country where the government had the right to do whatever it wanted. You would have no say in the election of government officials and your voice would never be heard by them. If this sounds unthinkable to you, then you might be surprised to know that there are thousands of people in Hawai'i who subject themselves to this sort of treatment year after year. The government is not at fault, though. These people bring this on themselves, simply by not voting.

As a member of a union family which is fortunate enough to live in a democratic society, I realize that voting is very important. In each election, the union carefully examines each candidate's motives and intentions. Through this process, they recommend the candidates they believe will best serve the interests of the union and its members. With a carpenters' union as strong as ours, if all the members voted for these candidates, he or she would surely be elected.

Having union-endorsed candidates in office would yield many benefits. The officials would support legislation for responsible growth and support the union movement, thereby creating jobs for union members. They could also work with other officials to support the carpenters' union in their area.

With our voice being heard in the government and enough work for everybody, the nation's economy would be vastly improved because people earning money means people spending money. Also, if union members understood the link between voting and jobs, they would show more interest in government matters and more support for the Carpenters' Union. Perhaps even some nonunion contractors would join us.

I believe that the right to vote should be taken seriously by all who possess it, especially Carpenters' Union members. If everybody did this, we would be able to elect the candidates who would best serve us, have our voice heard in the government, and improve the quality of life for everyone. If not, we would be giving the government the right to do exactly as it pleased, and we would only have ourselves to blame.

24TH ANNUAL ADIRONDACK BALLOON FESTIVAL

HON. GERALD B. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. SOLOMON. Mr. Speaker, I would like to call the Nation's attention to one of the world's most important outdoor events. I am extremely proud to announce that the 24th Annual Adirondack Balloon Festival was again held this autumn in my hometown, beautiful Glens Falls, NY. It is the largest, best-known event of its kind in the entire United States.

Originally held in Queensbury, for the past 20 years the festival's home has been the industrial park adjacent to the Warren County airport. As they have for the past quarter century, balloonists from all over the globe will participate in this world-class event.

The Adirondack Balloon Festival was the brainchild of public relations man Walter W. Grishkot of Glens Falls. He wanted to attract visitors to the scenic region in upstate New York. It was a stroke of brilliance: Each year, over 100,000 spectators flock to the region to see the balloons and a variety of other entertainment. Mr. Grishkot has provided a fall getaway to the historic Adirondack region for millions of folks over the years and in doing so has spurred the tourist industry for his friends and neighbors in the community.

Mr. Speaker, I would like to commend Walt Grishkot for his great idea and welcome everyone to come up to Glens Falls, NY, for the Adirondack Balloon Festival, which still does not charge admission.

THE PRODUCTION FLEXIBILITY CONTRACT IN THE AGRICULTURAL MARKET TRANSITION (FREEDOM TO FARM) ACT IS A BINDING GUARANTEE ON THE PART OF THE UNITED STATES

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. ROBERTS. Mr. Speaker, as the 104th Congress nears adjournment today, it is a proper time to review the changes that have been made in farm programs under the Agricultural Market Transition Act [AMTA]—I refer to it as freedom to farm—and what farmers and producers can expect, during the 1996 through 2002 period, in the way of guaranteed fixed, albeit declining, payments on their production flexibility contracts with the Federal Government—the Commodity Credit Corporation.

Nearly all U.S. farmers and producers have signed up for the production flexibility contract

with the U.S.D.A. Consolidated Farm Service Agency, and from all reports I believe it is widely endorsed by farmers, consumers, rural communities, and rural credit providers, and many others. It reverses 60 years of over-regulation of farmers and producers by the Federal Government and gives them the flexibility to apply good financial management practices and good environmental management practices on their farms.

The reason that I make this statement today is to provide some legislative history and background for those farmers who have signed a contract with the U.S.D.A. Commodity Credit Corporation and may be aware that President Clinton released a statement on April 4, 1996, when he signed the Federal Agriculture Improvement and Reform [FAIR] Act of 1996 (Public Law 104–127) claiming he planned to submit legislation in 1997 to amend the FAIR Act.

I will review the provisions of the enactment of the Freedom to Farm Act (Public Law 104–127), its legislative history, and analyze a recent and relevant Supreme Court decision that sets forth standards for Federal Government liability under similar contracts.

Title I of the Agricultural Market Transition Act (Public Law 104–127, 110 Stat. 896, April 4, 1996) states in section 101(b), as noted in pertinent part below, part of the purpose of the act:

(b) PURPOSE.—It is the purposes of this title—

(1) to authorize the use of binding production flexibility contracts between the United States and agricultural producers to support farming certainty and flexibility while ensuring continued compliance with farm conservation and wetland protection requirements;

The conference report (H. Rept. 104–494, dated March 25, 1996) explains the origin of the language in section 101(b) quoted above and adoption of the House provision by the conferees:

SUBTITLE A—PURPOSE AND DEFINITIONS

"(2) Purpose

The House bill states that it is the purpose of this title to authorize the use of binding production flexibility contracts between the United States and producers; to make recourse marketing assistance loans; to improve the operation of the peanut and sugar programs and; to terminate price support authority under the Agricultural Act of 1949. (Section 101)

The Senate amendment has no comparable provision.

The Conference substitute adopts the House provision with an amendment deleting the reference to the Agriculture Act of 1949 and adding a reference to the establishment of the Commission on 21st Century Production Agriculture. (Section 101).

When the farm bill (later to become Public Law 104–127) was debated on the House floor an inquiry was made about the contractual aspects of production flexibility contract. (See 142 CONGRESSIONAL RECORD, H1539 daily ed. Feb. 29, 1996, (statement of Rep. ROBERTS)):

Let me first say that it is clearly the intent of Congress that the market transition payment provided by the 7-year production flexibility contract is an express and unmistakable contract between the United States and the owner and operator of farmland. Because the market transition payment is based on the 7-year contract it is the intent of the legislation that the payment is guaranteed.

When the conference report was taken up on the House floor, the production flexibility contract was explained as follows (See 142 CONGRESSIONAL RECORD, H3141 daily ed. Mar. 28, 1996, (statement of Rep. ROBERTS)):

The guarantee of a fixed (albeit declining) payment for seven years will provide the predictability that farmers have wanted and provide certainty to creditors as a basis for lending. The current situation in wheat, corn and cotton under which prices are very high, but large numbers of producers have lost their crops to weather or pests would be corrected by FFA. Those producers last year could not access the high prices without crops, and instead of getting help when they need it most, the old system cuts off their deficiency payments and even demands that they repay advance deficiency payments. FFA insures that whatever government financial assistance is available will be delivered, regardless of the circumstances, because the producer signs a binding contract with the Federal government for the next seven years.

The debate of title I of the conference report on the FAIR bill in the House and in the Senate is replete with references to "contract," "guarantee," "binding contract" and similar references. The Production Flexibility Contract (U.S.D.A.–CCC Form 478) speaks in terms of contract acreage, contract crop, and the ability of CCC representatives to enter onto the producer's farm to determine "compliance with the contract."

The fact that the production flexibility contracts were intended to carry with them a guarantee of payment barring failure of the producer to comply with certain statutorily express conditions for compliance is clearly illustrated. Given that, it should follow that these production flexibility contracts represent vested legal rights in owners or producers that could be altered by subsequent enactment, except that those legal rights could be enforceable against the Government for damages if for some reason funding were not made available during the 7-year period of the contract contemplated in the AMT Act.

The ruling of the Supreme Court in the case of United States versus Winstar Corp. et al., U.S. , No. 95–865 slip op. (July 1, 1996) should serve as a precedent and should apply in the event there is an amendment to the Agricultural Market Transition Act prior to 2002 that could have the effect of breaching the contractual obligations of the Government to fulfill the provisions of the Production Flexibility Contract.

The Winstar case held that Federal bank regulations that implemented the 1989 Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) (Public Law 101–73, see particularly 12 U.S.C. 1464(t)) imposed new capital requirements on savings and loan associations in derogation of promises made in pre-1989 agreements that allowed financial institutions willing to take over failing institutions to use certain accounting devices to satisfy capital requirements and this constituted a breach of contract for which the Government was liable for damages.

The United States in the Winstar case raised the unmistakability defense to the effect that a public or general sovereign act such as FIRREA's alteration of capital reserve requirements (that reversed the earlier permission of certain savings and loan institutions to use certain accounting devices) could not trigger contractual liability for the Government.

However, the unmistakability defense or doctrine states that "sovereign power, even when unexercised, is an enduring presence that governs all contracts subject to the sovereign's jurisdiction, and will remain intact unless surrendered in unmistakable terms." Merrion versus Jicarilla Apache Tribe, 455 U.S. 130, 148 (1982). The application of this doctrine turns on whether enforcement of the contractual obligation alleged would block the exercise of a sovereign power of the Government. United States versus Winstar Corp. et al., U.S. , No. 95–865 slip op. at 39 (July 1, 1996).

As opposed to attempts to bind Congress from enacting regulatory measures inconsistent with the contracts, the contracts in Winstar allocate or shift the risks incurred by the parties. The plaintiff Winstar did not assert that the Government could not change the capitalization requirements applicable to the plaintiff, but that the Government assumed the risk that where subsequent changes prevented the plaintiff from performing under the agreement that the Government would be held liable for financial damages. So long as such contract is reasonably construed to include a risk-shifting component that may be enforced without effectively barring the exercise of that power, the enforcement of the risk allocation raises nothing for the unmistakability doctrine to guard against, and there is no reason to apply it. Id. at 41.

Under the production flexibility contract, risks are allocated among the parties. As opposed to prior farm programs, the producers agree to accept the risk of fixed payments unrelated to national supply or established target prices in exchange for the Government's acceptance of the risk of less control over supplies of various types of agricultural commodities. As in Winstar, the issue does not turn on whether the Government can subsequently change the rules under which producers operate if they elect to participate in a program, the issue is whether enforcing the risks shifted among the parties will infringe upon the sovereign jurisdiction of the United States. Where changes in the production flexibility contract by the Government result in a financial liability to the producer, the Government is liable to the producer for a breach of contract and damages. This liability does not infringe on the Government's sovereignty and does not violate the unmistakability doctrine.

The Government in Winstar, supra, also asserted that under the sovereign acts doctrine, "whatever acts the government may do, be they legislative or executive, so long as they be public and general, cannot be deemed specially to alter, modify, obstruct or violate the particular contracts into which it enters with private persons." The Court in the Winstar case held that the sovereign acts doctrine:

* * * balances the Government's need for freedom to legislate with its obligation to honor its contracts by asking whether the

sovereign act is properly attributable to the Government as contractor. If the answer is no, the Government's defense to liability depends on the answer to the further question, whether that act would otherwise release the Government from liability under ordinary principles of contract law. Id. at 57.

In answering the first question, the Court looked at whether the action by the Government having an impact on the public contract was merely incidental to the accomplishment of a broader governmental objective. The greater the Government's self-interest, the more suspect the claim that the private contractor bear the financial burden of the Government's action. Id. at 60. In Winstar, the Court found that a substantial purpose of the Government's action was to eliminate the very accounting formula that the acquiring thrifts had been promised. Thus, the Government's self-interest was so substantial that the statute was not a "public and general" act for purposes of the sovereign acts defense. Id. at 61.

Any changes to the statutory authority for production flexibility contracts would no doubt follow the same analysis as that relied upon by the Court in Winstar. To the extent that the farm programs would be altered, it would be likely that the Government would have substantial self-interest in any relief it might obtain from risks allocated it under the contract. Most likely this would result in some legislative change to reduce the amount of money paid to producers. While such change would likely be for the "public and general" benefit, it would undercut the allocation of risks between the parties to the contract and as such, would substantially be in the Government's self-interest.

Finally, the Government in Winstar asserted the defense of impossibility. To invoke the defense of impossibility, the Government would have to show that the nonoccurrence of regulatory amendment was a basic assumption of the contracts. That is the parties assumed that the statute on capitalization requirements would not change. As the Court notes, a change was both foreseeable and likely in that case. Id at 67.

The production flexibility contract states in the appendix to Form CCC–478 (the production flexibility contract) that if the statute on which the contract is based is materially changed during the period of the contract, CCC may require the producer to elect between modifications of the contract consistent with the new provisions and termination of the contract. This statement itself is an acknowledgment that the Congress very well may change the Agriculture Market Transition Act prior to its expiration in 2002. Further, if Congress changes the program, it is reasonable and expected that the contracts would be modified accordingly. However, as was true with the plaintiff in Winstar case, producers have no desire to assert that Congress cannot change the underlying statute, but instead, may pursue a claim for breach of contract and damages where any legislative change results in changes to the contract and producers incur financial damages. The acknowledgement of possible legislative change to the production flexibility contract should only serve to weaken any further Government defense of impossibility.

CONDEMNING THE ATTACK ON THE ECUMENICAL PATRIARCHATE IN ISTANBUL, TURKEY

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. GEPHARDT. Mr. Speaker, I rise to condemn the recent attack on the ecumenical patriarchate in Istanbul, Turkey.

On September 30, a hand grenade and machinegun fire were directed at the ecumenical patriarchate in Istanbul. The home of Ecumenical Patriarch Bartholomew, this site serves as the headquarters of Orthodox Christianity for over 300 million worshipers worldwide. The damage from this attack is reported to have been extensive, having blown out windows of the Patriarchal Cathedral of St. George and the sleeping quarters of His All Holiness and others in the compound.

Terrorist attacks such as this should be condemned by all, and must be tolerated by none. The targeting of a religious compound serves as a disturbing reminder of the extent to which the practitioners of terror will go to achieve their aims, and should cause us to redouble our efforts against those who seek gains through destruction and violence against innocent individuals.

I urge the Turkish authorities to investigate and seek justice against the perpetrators of this deplorable act. I extend my support to Patriarch Bartholomew and Orthodox Christians throughout the world as you seek to restore the ecumenical patriarchate and continue to express your faith in peace.

REPUBLIC OF CHINA'S NATIONAL DAY

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. HILLIARD. Mr. Speaker, in recent years, the Republic of China on Taiwan has emerged as a major economic power in the world. Much of this economic success is directly attributable to the efforts of its leaders: President Li Teng-hui, Vice President Lien Chan and Foreign Minister John H. Chang. These leaders fully understand that a strong economy is a necessary basis for political reform.

Mr. Speaker, let us show our admiration for our friends in the Republic of China by congratulating them on their 85th National Day—October 10, 1996. Let us also warmly welcome Ambassador Jason Hu, the Republic of China's representative in Washington, DC. We look forward to working with him.

REGULATORY RELIEF PROVISIONS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. LAFALCE. Mr. Speaker, the continuing resolution for fiscal year 1997, which passed the Senate yesterday, includes a number of significant regulatory relief provisions for financial institutions. I have been a long-time advocate of removing regulatory requirements that impose duplicative or burdensome application, reporting, or examination requirements on financial institutions. A number of such provisions have been incorporated within this legislation. Unfortunately, these provisions have been at risk because of anticonsumer provisions incorporated in the same bill.

Fortunately, the current legislation removes the more extreme proposals that were included in earlier House regulatory relief bills that would have repealed key sections of consumer protection laws and severely weakened important safety and soundness protections for financial institutions. I am particularly pleased to see that a provision that would have immediately repealed the civil liability sections of the Truth in Savings Act was dropped in last minute changes to the bill. However, I continue to be concerned with a number of sections that were retained in the continuing resolution that weaken important consumer disclosures and legal remedies.

I am concerned, for example, with several changes made in section 2605 that change current procedures relating to automobile leases under the Consumer Leasing Act. The section would appear to create a safe harbor from any enforcement action or civil liability for false or misleading lease disclosures by permitting auto lessors "who use the material aspects of any model disclosure form" to be deemed to be "in compliance with the disclosure requirements" of the act. This wording does not clarify if these lessors would be in compliance only with the requirement to provide disclosure or with requirements elsewhere in the act to provide truthful and complete disclosure. Certainly I believe the latter interpretation would be overly broad and inappropriate. But the wording is potentially vague enough to shield abusive lessors from possible civil litigation and provide them with a basis to challenge administrative actions.

A second change would modify current requirements for lease advertising to weaken current consumer disclosure regarding auto leases. It would eliminate two sets of key disclosures in current advertisements: the requirement to disclose the type and amount of any lease-end liabilities and charges, and the requirement to disclose whether or not a consumer has an option to purchase the property. These disclosures involve information that consumers need to know to make an informed choice among available automobile leases.

The legislation also retains language that repeals current requirements for the collection and publication of annual data on bank lending to small businesses, small farms and minority business. In 1993, Congress required the Federal Reserve to collect and publish data from the June bank Call Reports on the number and size of loans to small business. This data has become an invaluable source of information on the sources and availability of credit to U.S. small businesses. This information is critical to monitoring the lending performance of banks. And it also provides extremely important information to assist the SBA, business organizations, and consumer groups in directing small business owners to

local institutions that have strong records of lending to small businesses.

Several additional provisions also raise concerns as providing for potential abuse of consumers. Section 2105 changes current disclosure requirements for adjustable rate mortgage loans under the Truth In Lending Act to permit lenders to simplify disclosure of potential interest rate and payment fluctuation for variable-rate loans. Currently lenders are required to show a historic example of how the rates and payments for loans comparable to that being offered had actually changed over a recent period of time. Lenders now would have the option of disclosing only the maximum potential payment for a $10,000 loan originated at a recent interest rate. This option would virtually eliminate more meaningful disclosure of historic rate and cost fluctuations and provide disclosure with little relevance to most loans actually offered to consumers.

Two additional provisions also trouble me. The first, in section 2302, would prohibit information contained in self-testing studies by banks that document violations of the Fair Housing Act and the Fair Credit Opportunities Act from being used in administrative actions and civil suits where the bank has made any effort to remedy these violations. A second proposal, in section 2305, requires debt collection agencies to identify themselves to consumers only in the first contact. All further efforts to collect a debt could presumably be represented in ways that tended to misinform, confuse or intimidate the consumer without violating the Fair Debt Collection Practices Act.

Mr. Speaker, these are examples of sections contained in the continuing resolution that I believe raise potential problems for consumers. These present important issues that I hope the Banking Committee will have an opportunity to reconsider in the next Congress.

CONGRATULATIONS TO RACHEL ENOMOTO, A WINNER IN THE HAWAII CARPENTERS UNION VOTE 1996 ESSAY CONTEST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to commend Rachel Enomoto of Mililani, HI for her winning essay in the Hawaii Carpenters Union "Vote '96—Vorks for US" essay contest. Rachel, the daughter of Hawaii Carpenters Unit 6 member Stephen Enomoto, took first place in the 11 years and under age category.

As one of the judges, I can truly say there were many fine entries in this contest dedicated to promoting the importance of voting. Hearing from the youth of our Nation puts a new perspective on this right we sometimes take for granted. Congratulations Rachel on your insightful, award-winning essay:

The reason why voting is so important to our union family is because one person and one vote may not be by itself strong, but a vote that is united can make a difference.

Unions have long fought for their members' rights to a good wage, safe working conditions, and fair representation with management. If the union family doesn't vote as one then the rights gained can easily be lost.

If my dad were to get hurt at work, he has the right to get the workmen's compensation, or if he were to go on strike he knows that the company does not have the right to replace him while on strike. These are just a few rights that might be taken away under a Republican Congress.

It is up to the union members to support and vote for candidates that would oppose such measures if elected, candidates who would support union—workers—rights in Congress.

In conclusion, the union family must take an active part in each election because if the union family does vote for who they want, it will make a difference. But if they don't vote, they're allowing others to decide their future.

UNIVERSAL TELECOMMUNICATIONS SERVICE AND NATIVE AMERICANS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. RICHARDSON. Mr. Speaker, I am introducing a House resolution expressing the sense of the House of Representatives that universal telecommunications service can only be met if the needs of Native Americans are addressed and policies are implemented with the cooperation of tribal governments.

As the joint Federal-State Board on Universal Service prepares to issue its recommendations, the implementation process of the Telecommunications Act reaches a critical stage. I believe it is important to make it perfectly clear that the intent of Congress can only be fulfilled if the universal service policies or procedures established to implement the act address the telecommunications needs of low-income Native Americans, including Alaskan Natives. Cost-effective solutions are best developed with the cooperation of tribal governments.

When Congress enacted the Telecommunications Act in February, great emphasis was placed on ensuring the delivery of telecommunications services, including advanced telecommunications and information services, to all regions of the Nation. This principle of universal service is designed to address the exceptional needs of rural, insular, and high-cost areas and make sure those services are available at reasonable and affordable rates.

This policy was established in the belief that telecommunications services have become essential to education, public health, and public safety of all people within the United States.

Indian and Alaskan Native people live in some of the most geographically remote areas of the country, with 50 percent of Indian and Alaskan Native people living in Oklahoma, California, South Dakota, Arizona, New Mexico, Alaska, and Washington.

Indian poverty in reservation areas in 3.9 times the national average rate. The average phone penetration rates for rural Native Americans is only 50 percent. The actual penetration rates are often much lower than 50 percent—for example, the Navajo Nation estimates that 65 percent of its citizens do not have telephones. What phone service there is in Indian country is often substandard and prohibitively expensive.

There is a continuing need for universal service in Indian country and for tribal governments to be directly involved in providing these services.

Among the recommendations in the 1995 Office of Technology Assessment report, Telecommunications Technology and Native Americans is a strengthened Federal/tribal government partnership in the telecommunications field to provide better services to persons in Indian country and to enable tribes to be direct providers of telecommunications services.

Now is the time to recognize the critical role that tribal governments can and must play in the implementation of universal service objectives.

PRESIDENT INVOKING EXECUTIVE PRIVILEGE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. SOLOMON. Mr. Speaker, the President is at it again. He is invoking executive privilege to shield from the public a memo written to him by FBI Director Louis J. Freeh. The memo by Freeh took the President to task for his shameful, do-nothing and say-nothing drug policy. Freeh, in what may be an understatement, criticized his boss for not providing any true leadership on the drug issue.

Mr. Speaker, it is unfortunate that Director Freeh's concerns were so warranted. We now know that drug use has skyrocketed among teens. And we know where to place the blame.

Mr. Speaker, this is not the first time our President has claimed executive privilege to prevent the release of embarrassing information. In fact, it is the fourth time. Any constitutional scholar knows that executive privilege was not intended to be used for policy documents such as this one. The simple fact of the matter is that President Clinton is trying to hide embarrassing information in an election year.

Mr. Speaker, I would urge the President to abandon the disingenuous tactic and hand over this document to the Congress. To do otherwise, is to damage the integrity of the White House.

S. 1505

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to see that the Congress has passed this important legislation. As a member of the Transportation and Infrastructure Committee, I have been involved with efforts to amend and reauthorize the Pipeline Safety Act since last year. This bill is also very important to my home State of Alaska.

S. 1505 achieves significant pipeline safety regulatory reforms. It also recodifies many requirements contained in existing law. I want to emphasize that these recodifications are not intended to diminish or affect the Secretary of Transportation's ability to exercise regulatory discretion.

One of the most important goals of this legislation is to allow the Department of Transportation to build effective partnerships with States, the public, and industry. For example, this bill authorizes the Secretary to conduct risk management demonstration projects. These projects will allow the Secretary and industry to continue to build upon the partnerships they have been developing. We recognize the benefits of allowing pipeline operators to implement individually tailored risk management plans in place of one-size-fits-all Federal requirements.

In addition to the risk management demonstration projects, we expect that the Secretary will continue to exercise flexibility and discretion with respect to the standards and requirements of this bill and of existing law. We recognize that technological progress made by industry may result in alternative and more effective methods to achieve pipeline safety goals. It is not our intent to allow rigid requirements to prohibit the use of these innovations. For example, alternative external inspection devices using x-ray or magnetic flux technology may be more effective and cost-efficient than smart pigs when used on aboveground pipelines, such as those in pipeline facilities on Alaska's North Slope. In these situations, the Department should use the authority it possesses under existing law to exercise the flexibility necessary to achieve goals in an effective manner.

PUERTO RICO ECONOMIC INCENTIVES

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. HAYES. Mr. Speaker, as I have said before, I believe it is essential that Congress continue to work with the elected officials of Puerto Rico to provide job creation incentives that continue to bring the U.S. citizens of Puerto Rico up to the economic levels of other American jurisdictions. It is unfortunate that Congress eliminated section 936 without providing a true, long term alternative program to accomplish these goals.

Nonetheless, we took an important first step in creating section 30A of the Internal Revenue Code which will provide for wage based incentives for existing companies doing business in Puerto Rico. It is imperative, however, that we do more. Next year, I am confident that the 105th Congress will work with Governor Rossello' and other government and business leaders in Puerto Rico to build section 30A in a way that provides incentives for new investment and job creation by companies not currently doing business on the island.

Together, we can develop those long term incentives that ultimately will be more efficient and effective than the program that has been eliminated.

DR. BERGEN MARKS HIS 25TH ANNIVERSARY

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today on behalf of Dr. Stanley S. Bergen, Jr. to mark his 25th anniversary as president of the University of Medicine and Dentistry of New Jersey [UMDNJ].

Dr. Bergen has served the State of New Jersey with exceptional dedication, energy, and leadership that has distinguished his career as the first and only president of UMDNJ. Under Dr. Bergen's stewardship, the university has emerged as the largest public university of the health sciences in the country and serves as a national resource for health professions, education, research, patient care, and services to the community.

Through his resolve to provide educational opportunity and health care services to all the people of New Jersey, the university has grown to include seven schools on four main academic campuses statewide with programs at more than 100 affiliated educational and health care institutions in communities throughout the State.

Dr. Bergen has provided opportunities to increase representation of minority faculty and students that has made UMDNJ a national leader in minority enrollment and retention. He is recognized as a national authority on health care and a prominent leader in academic medicine in the State and the Nation.

I congratulate Dr. Bergen for a quarter century of service to the people of our State. His high standard of excellence in education, research, and patient care has brought pride and honor to our State. I wish him all the best for his continued success.

THE NUCLEAR TEST BAN TREATY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. HAMILTON. Mr. Speaker, on September 24, 1996, the world witnessed a giant step toward the reduction of nuclear danger, as President Clinton followed by leaders from 17 other nations signed the Comprehensive Test Ban Treaty [CTBT] at the United Nations. The General Assembly earlier adopted the treaty with an overwhelming majority bringing to reality a vision of American leaders going back to Presidents Dwight D. Eisenhower and John F. Kennedy and Prime Minister Jawaharlal Nehru of India.

By banning all nuclear explosions, the treaty will end the development of advanced new types of nuclear weapons and also constrain the development, and qualitative improvement of nuclear weapons. It will also help prevent the spread of nuclear weapons to more countries. It is the fruition of a 40-year effort, revived in 1993 when President Clinton made the courageous commitment to work toward a "true zero" yield treaty.

We realize that the signing of the treaty is but the first step toward a long road ahead. Some forty-four nations will have to sign and then ratify before its entry into force within the next 2 years. While this treaty, or for that matter any treaty, cannot be perfect, it is an indispensable step toward further negotiations and inevitable progress toward the establishment of international peace and security in the post-cold war era. The CTBT is a historic milestone toward the prevention of nuclear proliferation and a safer world.

I urge all members to join me on this occasion in congratulating the President upon achieving this significant step and call upon other nations to put aside their differences and sign the treaty expeditiously.

H.R. 2703

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. RUSH. Mr. Speaker, I rise today disillusioned and greatly saddened by acts of cowardice violence that continue to beset our Nation. To the great dismay of many citizens, the growing sophistication and fearlessness of criminals and vigilantes have made it necessary for law enforcement to be granted greater means and authority with which to pursue and capture those who seek to do harm.

And the unfortunate price that law-abiding citizens must pay for these extra security measures is to compromise their civil liberties. Therefore, I rise today as a reluctant supporter of the antiterrorism legislation contained in H.R. 2703.

Certainly, there is an unfortunate pressing need for harsher punitive measures against those who burn churches or assault the citizenry with bombs and other weapons of destruction. And certainly our law enforcement officials must be given new tools to crack down on and fight both foreign and domestic terrorism. As a nation, we must give clear, strong signals that such acts will simply not be tolerated and if individuals seek to test our will, they must understand that their actions will be met with equally forceful consequences.

Despite such obvious need for this bill, I have great reservations about the affect of this measure on our civil liberties. Increased access to our personal records and wiretap surveillance by law enforcement and the Government allows for great temptations for abuse. There is great potential that this bill will have the unintended affect of victimizing innocent, law-abiding citizens and allowing improper behavior by law enforcement to go unchecked.

Furthermore, this bill unfairly penalizes minorities, particularly African-Americans, due to the new restrictions it places on appeals by death row prisoners. It is well-known that the death row population is disproportionately African-American. And it is this community and this community alone that will bear the brunt of this unnecessarily harsh provision.

Mr. Speaker, it is a sad day in America when our only recourse to protect the lives of some is by restricting the rights of others.

CONGRATULATIONS TO JONI KONISHI, WINNER IN THE HAWAII CARPENTERS UNION VOTE 1996 ESSAY CONTEST

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mrs. MINK of Hawaii. Mr. Speaker, I rise today to congratulate Joni Konishi of Kapaa, HI, a winner in the Hawaii Carpenters Union "Vote '96—Works for Us" essay contest. Joni, a student at Kapaa High School, was the winner in the 15-to-18 age category. She is the daughter of unit 4 member Keith Konishi.

The Hawaii Carpenters Union contest asked each contestant to write an essay about the importance of voting. As one of the judges in this contest, I was pleased to see the many outstanding entries from Hawaii's students. Joni and all the winners must be commended for their efforts. I am pleased to submit Joni's essay for printing in the CONGRESSIONAL RECORD.

VOTE 96—WORKS FOR US

As a territory to the United States, Hawaii had no rights in voting for the leaders of this country. But, on August 21, 1959, Hawaii became the fiftieth state to join the union. From then on the people of Hawaii have had the right to vote for the leaders of their communities and country, unlike the people of Russia. We are fortunate that the government of our country is run democratically. Therefore we should take advantage of this right, and help make a difference in our communities and country. Voting is important to our union family politically, socially, and economically.

It is important politically for the union family to vote because politics are very important in Hawaii. The officials who are in office will be determining the futures of the people of the state not only politically, but socially and economically too. The democrat party consists mainly of people from the middle class. Therefore, they would be supporting the needs and wants of these people. The democrat party believes in welfare, social security, Medicare, creating jobs for the people, lowering taxes for the middle class, and also a low tariff. The elements of the democrat party are the same as the needs of the union family. Therefore, a vote from a union family for the democrat party would enable the leaders of the state and country to be one-step closer to recognizing their needs.

Not only is voting important politically, but also socially. Voting would be important to the union family socially because of benefits like welfare and social security. Social security enables the elders of the community to collect funds after they are of ages to retire and would not be working. Taking that away from the elders would be making it hard for them to live relaxing and carefree lives if they had to worry about money, even after working hard all of their life. Welfare is a benefit that many people live off of. Some individuals are unable to make enough money to support their families, or are unable to work due to a disability. These people shouldn't be punished for what is not their fault. All these people need is a little help and they'll be able to support their families. Voting for the right person into office would be giving them all of these benefits that will help make their lives easier.

The most important factor in the voting of union members would be economical. Having the right officials would be promoting the economy of Hawaii. The economy of Hawaii has gotten so bad that many of the locals have had to move to the mainland because there are more job opportunities there. The economy could increase by creating more jobs for the people of Hawaii. Construction is the second biggest industry in the state, yet the unemployment rate of Hawaii is going sky-high due to the many jobless carpenters. The union needs to vote in an official who would be willing to create more jobs for them. Creating jobs could also include finding work sites that need to be renovated, like Coco Palms on Kauai. The more jobs created, the less the government would be giving away funds in unemployment. The decreasing economy causes the people in Hawaii not to have money to spend on necessities. With the people not spending money in the community, many businesses close down and the competition in the island gets less. Therefore the prices rise because there is no one else to compare price and items with. The closing down of businesses also creates more unemployment. A union member vote could help the economy if the combined vote can get the right person in office.

Voting is important to our union family because of the political, social, and economic problems that it can help solve in the community, and also within the country. Having a vote in the electing of these leaders can help aid many of the issues that the members of the union want to address. One of the main issues being the unemployment of many members. Therefore, choosing the right leaders into office will make our dreams into reality.

HONORING THE HUNTINGTON BREAST CANCER ACTION COALITION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. ACKERMAN. Mr. Speaker, I rise today to honor the extraordinary work of the Huntington Breast Cancer Action Coalition. This coalition has been instrumental in escalating our awareness about the high rate of breast cancer throughout the Huntington community.

The Huntington Breast Cancer Action Coalition conducts town meetings, provides breast exam workshops and distributes educational literature. Moreover, this important organization works with the Suffork County Department of Health Services to provide yearly mammograms at St. Hughes of Lincoln Church in Huntington Station. The success of this independent, grassroots organization has been studied around the world. In fact, the Huntington organization has inspired the creation of the Tokyo Breast Cancer Action Coalition.

The coalition was created on October 12, 1992, by a group of women led by Karen Miller, who cared deeply about the high rate of breast cancer in their community and had been affected personally by this most serious condition. These women educated their families, friends, and neighbors about various prevention and early detection measures. By 1993, the organization had opened administrative offices. Today, the Huntington Breast Cancer Action Coalition has 1,500 active volunteers, each of whom is committed to putting an end to this serious condition. The organization has sent a woman's breast health survey to 68,000 households throughout Huntington. So far, they have compiled 26,000 responses in their computer database. The coalition eventually wants to use these findings to help determine the cause of the high rate of breast cancer in Huntington. At a dinner on October 1, the coalition will honor the following members who truly demonstrate the selflessness and compassion of an entire organization.

Michael Miller, who is the husband of the founder of the coalition, has been an outstanding leader in our fight against breast cancer. His wife's struggle with breast cancer has led him to nearly a decade of outspoken advocacy. Mr. Miller has owned and operated the A–OK appliance company for 33 years. He is also an active trustee of his synagogue. Michael Miller has lived happily on Long Island with his wife and three children since the 1960's.

Denise Kleinman, another coalition activist, who's husband Cal Kleinman while president of Bennett X-Ray developed the most modern state-of-the-art mammography machine, has worked diligently in the fight against breast cancer. Her volunteer efforts and commitment to the Huntington Breast Cancer Action Coalition reflect her compassion for this worthy organization and their mission.

A former New York City teacher, Denise has been involved in both her local PTA and in her synagogue. She is also a volunteer for Island Harvest which collects excess food and distributes it to the needy on Long Island. Denis Kleinman currently resides in Dix Hills with her husband and three children.

Carol Caruso has been one of the most active members of the Huntington Breast Cancer Action Coalition. Aside from her many volunteer efforts on behalf of the organization, she also had a vision, a dream, if you will, to start a Breast Cancer Health Education Center for everyone. She has spearheaded this concept and will devote her energies to making it a reality. Carol is a person who has truly made an extraordinary difference.

Both she and her husband have donated substantial resources from their family business in order to support this worthwhile cause. Her actions demonstrate how a local business can work alongside a volunteer organization in order to further the common interests of an entire community. Carol Caruso has also been an active volunteer in the Multiple Sclerosis Foundation. She currently lives in Oyster Bay where she enjoys the company of her six grandchildren.

The Huntington Breast Cancer Coalition truly represents the ideals of compassion, community, and determination. Their selfless actions will help others overcome their struggles with breast cancer. Mr. Speaker, I ask my colleagues to join me in honoring these extraordinary individuals and the outstanding work they have done for their community. The

organization's dynamic leaders and dedicated volunteers should serve as a model for us all.

HIA FUNDING IN FISCAL YEAR 1997

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. GEKAS. Mr. Speaker, I am pleased that the recently passed fiscal year 1997 appropriations bill—just signed into law by the President—containing funding for the Department of Defense, included language from the National Security Appropriations Conference Report which directed the Air Force to expend the necessary funds for the operation and maintenance of a site database to be located at the Pennsylvania State University at Harrisburg. The database is to support the former Olmsted Air Force Base Superfund site as it transitions from final DOD restoration to EPA Superfund deletion to public-private sitewide development. That language, from page H11875 of the CONGRESSIONAL RECORD of September 28, 1996, is presented here:

FORMER OLMSTED AIR FORCE BASE

The conferees are pleased that the final restoration by the Air Force of the former Olmsted Air Force Base in Pennsylvania is proceeding smoothly and the Environmental Protection Agency projects a delisting of the base (Middletown Airfield EPA National Priorities List Site) from the NPL by the end of 1996. The conferees feel that following delisting of the site it will be necessary to maintain near the site a comprehensive database which incorporates data from all current and future environmental investigations to provide a comprehensive look at the environmental status of the site for future development or emergency response situations and to maintain institutional controls. Therefore, the conferees recommend that, commencing in fiscal year 1997, the Air Force expend funds necessary (estimated at $123,000 over five years) for such a comprehensive site database to be located at the Pennsylvania State University at Harrisburg, Pennsylvania.

I have spoken at length before on the floor of the House of Representatives about the need for this site database and the need for the Air Force to fulfill its commitment to me, to the Commonwealth of Pennsylvania and to the environmental restoration of the site by fully funding the database. The inclusion of language about the site database in the conference report clearly shows widespread congressional support for this funding and location.

Even with the congressional directive expressed in the above conference language there is, however, a concern about the funding that I wish to share with my colleagues. While the conference language states that the Air Force must expend the funds necessary over 5 years to fund the database, it is not clear that the initial startup costs of $72,000 in fiscal year 1997 will be met. From the conference language the understanding is implicit, but not explicit, that if the Congress directs that the site database be established and funded, full and appropriate startup funding needs would be met.

It is my hope that the Department of Defense, and specifically the Air Force, will honor their commitment and the direction of the Congress of the United States, and by his signature the President of the United States, and fully fund this site database in fiscal year 1997 so that it can be fully operational by the time the former Olmsted Air Force Base is deleted from the EPA Superfund list.

COAST GUARD AUTHORIZATION ACT OF 1996

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 2, 1996

Mr. SHUSTER. Mr. Speaker, as chairman of the conference committee for S. 1004, the Coast Guard Authorization Act of 1996, I submit the following explanation of several sections included in the conference report on that bill.

SECTION 901. REDUCTION OF OIL SPILLS FROM NON-SELF-PROPELLED TANK VESSELS

The Conference substitute requires the Secretary of Transportation, in consultation with the Towing Safety Advisory Committee, to prescribe regulations requiring a single-hull non-self-propelled vessel that operates in the open ocean or coastal waters, or the vessel towing it, to have at least one of the following: (1) a crew member and an operable anchor on board the tank vessel that together are capable of arresting the tank vessel without additional assistance under reasonably foreseeable sea conditions; (2) an emergency system on the tank vessel or towing vessel that without additional assistance under reasonable foreseeable sea conditions will allow the tank vessel to be retrieved by the towing vessel if the tow line ruptures; or (3) any other measure or combination of measures that the Secretary determines will provide protection against grounding of the tank vessel comparable to that provided by the measures described in paragraph (1) or (2).

SECTION 902. REQUIREMENT FOR FIRE SUPPRESSION DEVICES

The Conference substitute allows the Secretary of Transportation to require the installation, maintenance, and use of a fire suppression system or other measures to provide adequate assurance that a fire on board towing vessels can be suppressed under reasonably foreseeable circumstances. In the case of vessels towing non-self-propelled tank vessels, the Secretary is directed to require the use of fire suppression or other measures by not later than October 1, 1997.

SECTION 903. STUDIES ADDRESSING VARIOUS SOURCES OF OIL SPILL RISK

The Conference substitute requires the Secretary of Transportation to complete studies which include studies of group-5 fuel oil automatic fueling shutoff equipment, and lightering.

SECTION 1125. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS

The amendments to section 1016(c)(1) of the Oil Pollution Act of 1990 (OPA 90) contained in section 1125 of the Conference substitute will allow the Minerals Management Service to implement the financial responsibility requirements of OPA 90 for offshore facilities in a reasonable manner. The Minerals Management Service has been unable to implement the offshore facility responsibility requirements under OPA 90 because of the potentially devastating impact on many types of small businesses resulting from the original OPA 90 language. This is because the original language of section 1016 of OPA 90 could be interpreted to (1) include facilities such as onshore refineries, marinas, and even fuel storage facilities located in wetlands as "offshore facilities"; (2) include all navigable waters of the United States; (3) require $150 million in financial responsibility from each offshore facility despite its oil spill risk; and (4) require financial responsibility certification for facilities that handle even minimum volumes of oil.

The Conference substitute clarifies the original intent of the Congress by ensuring that the financial obligations imposed by section 1016(c)(1) apply solely to "traditional" offshore oil facilities located seaward of the line of ordinary low water. The provision makes clear that "offshore facilities" do not include traditional land-based facilities. Marinas, refineries, and terminals are "onshore facilities" even though docks, piping, wharfs, piers, and other similar appurtenances, connected directly or indirectly to those facilities, may sit on submerged land seaward of the line of ordinary low water. All of the components of those facilities are part of the onshore facility.

The Conference substitute maintains a reasonable financial responsibility requirement of $35 million and allows the President to raise the requirement to a level not exceeding $150 million if he determines that the risks justify the result. The substitute allows facilities which have a small oil spill discharge potential (1000 barrels or less) exempted from the financial responsibility requirement altogether.

The substitute also allows "direct action" against a guarantor for an offshore facility only in the following cases: (1) the claimant is the Federal government; (2) a responsibility party for an offshore facility has denied or failed to pay a claim because of insolvency; or (3) a responsible party for an offshore facility has filed a petition for bankruptcy under title 11, United States Code. The substitute clarifies that a guarantor's total liability under OPA '90, including under direct action, is limited to the amount of financial responsibility provided.

SECTION 1141. DREDGING OF RHODE ISLAND WATERWAYS

The Conference substitute requires the Army Corps of Engineers to issue recommendations regarding dredging in Rhode Island state waters.

SECTION 1142. INTERIM PAYMENTS

The experience in Rhode Island in connection with the NORTH CAPE spill shows that partial or interim claim settlement programs are vital when the income of lobstermen or fishermen is interrupted because of an oil spill. These amendments make it clear that interim or partial claim payments are available for loss of profits or earning capacity under Oil Pollution Act. The acceptance of such interim or partial payments will not prevent a claimant from recovering other damages to which he is entitled, but no double recovery by any claimant will be permitted. This section clarifies the availability of partial or interim payments but does not, in any way, preclude a claimant from entering into a final settlement. The limitations imposed by section 1017(f) of the Oil Pollution Act shall apply to partial or interim claims.

SECTION 1143. OIL SPILL INFORMATION

The Conference substitute amends the Federal Water Pollution Control Act to create a repository for information pertaining to oil spills.

SECTION 1144. COMPLIANCE WITH OIL SPILL RESPONSE PLANS

The Conference substitute amends the Federal Water Pollution Control Act to provide greater discretion to the President or the Federal on-scene coordinator regarding oil spill response plans.