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The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask that further proceedings under the quorum call be rescinded.

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

#### SUPREME COURT NOMINATIONS

Mr. DOLE. Mr. President, I would hope that we can move right along with the tax reform bill. The chairman is ready. The distinguished Senator from Louisiana is ready. They are ready for business. I also want to commend the President of the United States for the announcement he just made. He will be sending the Senate the nomination of Justice Rehnquist to become Chief Justice and the nomination of Antonin Scalia to be a justice of the Supreme Court. Chief Justice Burger will be retiring.

□ 1410

I believe that, without question, the President has selected two outstanding individuals who have the experience, the background, the integrity, the intelligence, and the right stuff. And I would guess that the nominations will be confirmed by this body without any great deal of delay.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. I am happy to yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I want to join the distinguished majority leader in congratulating the President on his choice of Justice Rehnquist. In my judgment, Justice Rehnquist is a great justice on the Supreme Court. His views and mine are consistent with those of the President of the United States. I think it is appropriate that Justice Rehnquist be appointed Chief Justice. I think he has been a great Justice and a great American, and I will be pleased to support the confirmation of his nomination.

Mr. DOLE. I thank the distinguished Senator from Louisiana.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. DOLE. I yield to my friend, the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I greatly appreciate the distinguished majority leader yielding to me.

I, too, want to congratulate the President on his two appointments today.

As an Italian-American whose parents came here from Italy, right to Albuquerque, NM, it is with a great deal of pride that I not only congratulate the President, because I think both of his nominees are excellent, but also, I should like to take a moment to talk about Judge Scalia. I know the judge

very well. However, that is not why I rise.

I rise because this is the first Italian-American who will serve on the Supreme Court of the United States in the history of the Republic. I believe that is a magnificent tribute to the Italian-Americans of this Nation. I am convinced that President Reagan is absolutely faithful to what he has said about all his nominees: He will pick the very best. In this case, I am sure he picked the very best.

I do not think we will have a lot of trouble confirming the nomination of Judge Scalia. The President picked the very best, but in this case he also happens to be an Italian-American.

There are millions of Italian-Americans in this country, many of whom started with nothing, many of whom started with immigrant parents who saw that they got an education, all of whom have benefited from this magnificent country that permits all of us to share in its opportunities at every level, in every field of endeavor.

So today I think we are witnessing the first step in the confirmation of the nomination of a new justice who will serve on the U.S. Supreme Court, who will serve with distinction, and who will have the credit of being the first Italian-American to serve on that high court.

Looking at his background, obviously, it is absolutely exemplary. He attended Harvard and served as editor of their Review. He also was a distinguished professor at one of the best universities in the United States. There are many, but one of the best is the University of Virginia.

From that point on, everything he has done has been of a very high quality. His opinions, as he served on the circuit court here, are noted for their clarity, for their absolute distinction in terms of scholarship and following precedent.

I compliment the President, and I compliment Judge Scalia as the nominee, and I hope the U.S. Senate will act with dispatch.

Mr. DOLE. Mr. President, I thank my distinguished friend, Senator DOMENICI, who does have a personal relationship, a good relationship, and friendship with soon-to-be Justice Scalia. Senator DOMENICI has underscored the nominee's qualifications. I thank him for that.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the distinguished Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. I thank the leader. I will not take long.

Mr. President, I want to compliment my good friend from New Mexico, Senator DOMENICI, on raising the importance of ethnic Americans.

We are all Americans and we all pull together when the times make it nec-

essary; but there is a certain pride, whether you are Polish-American, Irish-American, or Italian-American. Being of Italian-American ancestry, it is with great pride that I see the President choose Judge Scalia today as his nominee.

Many Italians have risen to some outstanding positions in our Government and served in the judiciary. I speak of my own father, who served as Supreme Court Justice in the State of Arizona. Yet, we have never had an Italian-American serve on the U.S. Supreme Court. So I hope the Senate will act very quickly.

As to Justice Rehnquist, he is an Arizonan. He was educated at Stanford University. He has served with distinction not only on the Supreme Court but also as a member of the Bar in the State of Arizona. He knows the law, and he is indeed a scholar.

I wish him every success, not because he is from Arizona but because he is taking on a tremendous job. He has proven his ability as a superior Justice of the Supreme Court, and now he has some very big shoes to fill.

I have had disagreements with Chief Justice Burger, but I have had many agreements with him. He has been an outstanding Chief Justice of the United States, and Justice Rehnquist is the ideal person to fill those shoes.

As an Italian-American, it makes me proud today for Judge Scalia; as an Arizonan, it makes me proud today for Justice Rehnquist; and as an American, it makes me proud to see President Reagan choose quality people for the Top Court of this land.

Mr. DOLE. I thank the distinguished Senator from Arizona.

Mr. President, I yield to the distinguished chairman of the Senate Judiciary Committee, Senator THURMOND.

Mr. THURMOND. I thank the majority leader very much.

Mr. President, just before 2 o'clock, the President called me and stated that he would announce new appointments to the Supreme Court. He has announced them. He stated that Chief Justice Burger had resigned and that he was going to nominate Justice Rehnquist to succeed him as Chief Justice.

In my opinion, this is a logical appointment. Justice Rehnquist is a comparatively young man. He is a conservative judge. I believe his thinking is in line with that of the administration, people as a whole and with that of President Reagan. Justice Rehnquist is a true scholar, and in my opinion, he will make an outstanding Chief Justice.

I told the President that I commended him for his appointment and I felt there would be no trouble in having the nominations confirmed by the Senate.

The President also announced that he is going to nominate Mr. Scalia who is now a member of the Circuit Court of the District of Columbia, to succeed Justice Rehnquist. Mr. Scalia, who will be the first person of Italian descent to serve on the Supreme Court of the United States, has a fine record. He was an outstanding student. In my opinion, he will be a worthy successor to Justice Rehnquist.

I do not think these changes will change the philosophy of the Court. Had there been some other resignations, it might have changed the philosophy. I have been asked the question as to what effect it would have on the Court. I do not think that, as a whole, the balance of the Court will be changed by these appointments.

Chief Justice Burger has resigned because he has been on the Court for 17 years. He has worked extremely hard; he has really been overworked. He is also chairman of the Bicentennial Commission on the Constitution. The 200th anniversary of the Constitution will be celebrated next year. I think he wants to devote the remainder of the time to that and give more time to it, and therefore he has resigned as Chief Justice.

Chief Justice Burger, in my judgment, has made one of the finest Chief Justices the Nation has ever had. He is a sound thinker, he is an able writer, and he is a great scholar. We are very proud of his service. We commend him for serving his Nation so actively and effectively and wish him success in the future.

□ 1420

I am very honored to serve with him on the Constitutional Commission to celebrate the Constitution, and I look forward to working with him until this work has been completed next year.

Mr. DOLE. Mr. President, I thank the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, who will have the responsibility to move these nominations forward. I am not certain when they will be coming to the Senate. But I am certain as soon as they are here, we will start disposition and, hopefully, we can take action on these two nominations at the earliest possible time.

Mr. THURMOND. Mr. President, in response to the able majority leader's statement, as soon as the nominations come to the Senate, we will set hearings as promptly as we can, and we hope to expedite these nominations. There should not be a delay in filling vacancies on the Supreme Court of the United States. It is important that they be acted upon promptly, and that is exactly what we expect to do.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. DOLE. Mr. President, let me indicate in another matter, the President called me this morning to very strongly indicate his support for a nominee to the circuit court, Mr. Manion. I indicated to the President I would be bringing that nomination to the floor at the earliest possible time.

As I understand, minority views have not yet been filed, but hopefully will be filed soon.

I would like to dispose of that nomination before we commence the so-called July Fourth recess.

The President feels very strongly about this particular nominee. He gave me a lot of information, which will be available for the record, and which is already available about Mr. Manion's qualifications. The President feels strongly that Mr. Manion is well qualified and should be confirmed by the Senate. I hope that we can accommodate the President and the Senators from Indiana, who strongly support the nomination. Senator QUAYLE and Senator LUGAR have also made their views known to me.

I will, at the earliest possible time, bring that nomination to the floor.

#### TAX REFORM ACT OF 1986

The Senate resumed consideration of the bill.

The PRESIDING OFFICER (Mr. GRASSLEY). The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thank the Chair.

Mr. President, I shall take a few minutes this afternoon as we begin to wind up the tax bill, this monumental effort at reforming the American tax structure, to talk to the U.S. Senate about what I perceive to be a very serious problem.

I think we ought to all understand it as we move through completing our work on this major overhaul of the tax laws of this land. I do not come to the floor to in any way talk about, attack, or in any way complain about the new tax bill.

What I am going to assume, in my discussion with the U.S. Senate and with those who are interested in the fiscal policy of this land, is that, when we are finished with the tax bill over a 2- or 3- or 4-year period, the tax bill will be revenue neutral, and it will come out yielding the same amount of taxes that we now take from the American people for all of those things that the National Government provides for its citizens. Included in that overall big tax coffer are the taxes for Social Security and Medicare that make up what we ask the American people, the American working men and women, American corporations, all as taxpayers to pay into our tax

coffers so we can run this Government of ours.

The purpose of my discussion today is to show the Senate the dramatic change that has occurred in the U.S. tax revenue base available to operate our Government on a day-to-day basis.

We hear a lot in this country with reference to 19 to 19.5 percent of our GNP coming to the U.S. Government by way of income taxes, corporate taxes, Social Security taxes, and those taxes imposed for the health care system called Medicare.

Some people say we got along with taxes at 18 or 19 percent of GNP 20 years ago, we ought to be able to get along with it now. Some would say we got along with 19 percent 10 years ago, we ought to get along with it now.

The purpose of this discussion today is to show the U.S. Senate and those who are interested why even though we got along with that 20 years ago and 15 years ago, we cannot get along with that amount of revenue any longer unless we are willing to live with deficits in the neighborhood of \$160 billion to \$200 billion.

I believe I can show the U.S. Senate in unequivocal terms that there is no way that the U.S. Government can maintain its posture on Social Security and Medicare which I understand the U.S. Senate, the U.S. House of Representatives, the President of the United States want to leave exactly as is. If we are going to leave those programs exactly as they are, and that is a given for now, and pay the interest payments that have now accrued that must be paid out of the National Treasury and insist that we have a tax base that is no more than 19 percent of our gross national product, I think I can convince the U.S. Senate that the only result will be deficits in the neighborhood of \$160 to \$200 billion.

Let me start with the simplest of charts. If you go back to 1955 and ask yourself what portion of the Social Security and Medicare taxes are as a percent of our gross national product, you will find that in 1955 it was slightly more than 1 percent. Now, if you then move up to 1985 and say, what portion of our gross national product is it now, it is now right at 6 percent.

Now, so everyone understands in 1955 we taxed our people and we paid for Social Security and Medicare, as Medicare phased in about here, we paid for that with just over 1 percent of our gross national product. One gets up around 1965 and you are at about 3 percent, and now we are at 6. The taxes for Social Security and Medicare are right up at 6 percent of the gross national product.

Now very simply so that everyone will understand the significance of each percent of GNP, let us use a round number. It is good enough for these discussions and reasonably accu-

share that with our colleagues. I think Senator DOLÉ serves as a very epitome of the grit and toughness which is needed in the face adversity if one is to overcome a personal handicap, and his very selfless participation in the creation of the Dole Foundation is but one more remarkable example of his strength and his tremendous leadership.

This foundation, since its inception in 1983, has aided lives all over America. I think last night's event underscores the importance of it all. It is a very unique foundation founded by a very unique person who serves us in such extraordinary ways as our leader.

With that, I join in the previous request and ask unanimous consent that the article from the New York Times of Monday, June 16, be printed in the RECORD.

(The article was printed earlier in today's RECORD.)

Mr. SIMPSON. Mr. President, I richly commend our leader for bringing this remarkable endeavor to the people of the United States who are so much less fortunate than we.

#### SUPREME COURT

Mr. SIMPSON. Mr. President, just very briefly, let me, while we are still waiting and dabbling in the mystic arts here, say something quite seriously, and that is with relation to the President's appointment of Justice Rehnquist to be the Chief Justice of the United States. There has been a great deal of discussion today of that. I think that is a remarkably fine appointment.

And I think that we are going to find that Justice Antonin Scalia will be a fine Supreme Court Justice. His accomplishments are extraordinary.

I will look forward as a member of the Judiciary Committee to participating in the confirmation of the appointment of the Chief Justice and the new Justice.

I certainly would be remiss if I did not just say a word about Chief Justice Burger whom I have come to know in my time here, a most extraordinary and delightful man—a man of good humor and warm spirit, and I say thanks to him for what he has done for this country.

He served with tremendous distinction and ability, with firmness and kindness and it has been a rich personal privilege to come to know him, to have visited with him in his chambers. He shall be greatly missed.

I say Godspeed to him and to his lovely wife Vera as they go forward to pursue the many things that they will enjoy in life. He is creative. He loves art and antiques and people. He is a cultured and civilized man.

I wish him well. To both of them we express our gratitude for a job very well done and very deeply appreciated

by this country. God bless our Chief Justice as he goes on to new things in his life.

I thank you.

□ 1830

I suggest the absence of a quorum on behalf of the Senator from Ohio.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Ohio. I cannot think of a worse time, nor can I think of worse circumstances under which we should try to repeal the FIRPTA law that was enacted in 1980.

Right now, under the committee bill, as it now stands, if a person in a foreign country wants to come in and buy U.S. farmland, that person can do so, realize a gain on the sale of that farmland, and not pay any taxes. But if a young farmer, a young person wanting to get into farming in America now wanted to go out and buy some land, realized a gain on it sometime later and wanted to sell it, then, under this bill, of course, that person would pay 27 percent taxes.

It seems rather odd to me that we are going to give this kind of a large tax break to foreigners who might want to come in and buy U.S. farmland. And we all know who those foreigners probably are. They are people with a lot of money. And we put in this law, this 30 percent withholding on the gain of a sale of real estate and farmland in 1980, specifically to keep our farmland from falling into the hands of foreign investors. And I believe that is a worthwhile goal.

Now, the Dear Colleague letter that came out asking us to keep this provision in the committee bill and to repeal FIRPTA asked us to repeal this because we need to have some investments in U.S. farmland. We need to bring in some foreign money.

And I heard the arguments made earlier here on the floor of the Senate that we indeed have to repeal this to bring foreign investments into farmland because then that would shore up the price of farmland, which we all know has fallen to disastrously low levels; that somehow this foreign investment would shore up the price of this farmland and that farmers would benefit from this because the farms that they now have, of course, the bottom would be shored up and we would not see this fall in land prices like we have seen over the last several years.

□ 1840

It is true. We have seen this fall in land prices. I can tell you right now that in my State of Iowa the last 4½ years, almost 5 years, we have seen over a 50 percent, almost 60 percent decline in the asset value of the farmland in Iowa over the last 5 years. We still have not seen the bottom. The price of farmland still continues to go down in the State of Iowa as I am sure it does in many States in the Midwest. So it is clear that we have a depressed situation in agriculture, and land prices are going down.

Let us examine this argument that somehow by repealing FIRPTA, repealing this 30 percent tax and letting a foreigner come in, buy farmland, not having any tax at all on the sale of that farmland, that somehow this is going to shore up the price of this farmland.

Well, I submit that is the worst thing we can do to shore up the price of farmland. The answer, the simple, straightforward answer to stopping the fall in land prices to our farmers is not to open the floodgates to foreign investment, but to get a better price for the commodities that those farmers grow.

You stop the fall in prices of corn, wheat, beans, cattle, and dairy and everything else, the fall in land prices is going to stop, too. The reason that the land is falling in price is because the price for commodities grown on that land has fallen to ridiculously low levels.

So really the answer to falling land prices is to get a better price for the commodities that are grown on that land. That can be done. All we have to do is modify the farm bill that was passed last year. I would bet anything as long as I am standing here today that prior to yearend we are going to see some changes in that farm bill, and I hope we will see the price of farmland start to come back up again, hopefully not in the too-distant future.

That is why I said at the beginning that the worst possible time to do away with FIRPTA is right now when land prices are at depressed levels. I mean they are at fire sale levels right now. To open up the gates, let foreign investors come in and buy at fire sale prices by telling them that any increase in the value of that land in the next year and two, you can turn around and sell it and there will not be any taxes. Yes. You are right. You repeal FIRPTA, you will get a lot of foreign investment in farmland. They will come in and buy it at fire sale prices. They will buy a lot of that farmland.

The last estimate I saw is we had something in the neighborhood of a quarter million acres of farmland right now in Iowa that is up for sale,

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billion. Last year the trade deficit was \$150 billion.

What has happened? Our trade deficit this year will not fall by \$30 billion. The projection is that our trade deficit is going to increase by \$20 billion to \$170 billion, not a decline in our trade deficit, but an actual increase in our trade deficit.

That means lost jobs for Americans. It also means that for the first time the United States is a debtor nation. We now owe more to overseas creditors than they owe us. That has not happened in the history of our country since 1914. We are a net debtor nation.

Is that a good trade policy? No, it is not a good trade policy.

In addition, the standard of living of American workers is not rising. It has not risen in the last several years. It has started a decline on a relative basis. Our standard of living has declined on a relative basis.

I think the time is now to have a trade bill, a good trade bill, a solid trade bill.

We have an omnibus trade bill in the Finance Committee supported by nearly all Republicans and Democrats.

Why is it not moving? It is not moving because the President of the United States cavalierly, benignly does not want a trade bill. He says everything is OK. We know everything is not OK.

The time is for the President finally to realize that he has to work with Congress and pass a trade bill. The ball is in his court. The ball is at the other end of Pennsylvania Avenue. It is down at the White House. He should take that ball and play ball with Congress and more importantly do something for the American people. I do not think he is doing enough.

Mr. BENTSEN. Mr. President, will the Senator yield without losing his right to the floor.

Mr. BAUCUS. I yield.

Mr. BENTSEN. I appreciate the leadership of the distinguished Senator from Montana concerning trade. He has been in the forefront of that fight for a long time.

I think it is quite interesting to note that the CRS study we had made showed that the administration opposed every major pending trade bill both in the House and in the Senate.

Their initial reaction to trade legislation and ultimate reaction to trade legislation is always that it is protectionist. Whatever it is, they label it protectionist.

We have had bill after bill, and those bills have been introduced by Republicans and Democrats.

So that administration position has been one of obstruction rather than trying to find a constructive solution to the problem.

Mr. BAUCUS. I thank the Senator very much.

The fact is that many other countries are taking advantage of the United States. Some countries have targeted industries they protect, barriers they protect, with export subsidies we do not have. We are not Simon Pure. Of course we have some protectionist barriers.

But the fact is that most countries are more protectionist than we. They are taking advantage of us. We are the largest, most lucrative market for other countries. We are the biggest country, have the highest GNP, the highest per capita income. Other countries want to design products to sell in the United States.

I am saying we should no longer let other countries take advantage of us. We cannot wait any longer.

Mr. President, I yield the floor.

#### THE SENATE'S RESPONSIBILITY IN CONFIRMING JUDGES IS TO THE AMERICAN PEOPLE

Mr. FORD. Mr. President, last week when the Judiciary Committee began its hearings on the nomination of Judge Antonin Scalia to become an associate justice of the Supreme Court of the United States, my good friend and respected colleague, CHARLES McC. MATHIAS, the chairman of the Committee on Rules and Administration, on which I am privileged to serve as ranking minority member, devoted his weekly news column to an exposition of his views on the Senate's responsibility in confirming Federal judges. In particular, his views were directed to justices of the Supreme Court.

In my opinion, the senior Senator from Maryland has in this column surpassed even his own high standard of excellence in analysis and expression. What he has written is so excellent and timely, that I wish to be sure all of our colleagues can share in its wisdom and guidance.

Senator MATHIAS WRITES:

No responsibility entrusted to the U.S. Senate is more important than the duty to participate in the process of selecting the judges of the U.S. courts.

Then, in his final paragraph, the Senator states:

For when we carry out our duty to advise the President and consent to his choice, as our predecessors first did nearly two hundred years ago, our loyalty, like theirs, is neither to party nor to the President, but it is to the people, and to the Constitution they have established. If we cannot recognize and act upon that higher loyalty when we confirm judges, we cannot demand it of the judges that we confirm.

Mr. President, Senator MATHIAS calls our attention to the importance of ascertaining where nominees to the highest court in the land may take us when they fashion their decisions and opinions. Soon we will be called upon to vote not just on Antonin Scalia, but also the new chief justice designate,

and many other Federal judge nominees. We can all benefit from reflecting on the clear and direct views expressed by Senator MATHIAS, and I ask unanimous consent that the column be printed in the RECORD.

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

#### SENATE'S RESPONSIBILITY IN CONFIRMING JUDGES IS TO THE AMERICAN PEOPLE

(By Charles McC. Mathias, Jr.)

The Senate Judiciary Committee has been holding hearings on the nomination of Antonin Scalia to become an associate justice of the Supreme Court. Judge Scalia came before us with impressive records of achievement and persuasive endorsements, not to mention the recommendation of the President of the United States. There is, from the outset, no doubt that he had the intellectual attainments and the legal and judicial experience to serve effectively on the Supreme Court. Judge Scalia's strong credentials make it all the more important that we pause at the beginning of this process to reflect on the importance of the task the Senate is about to undertake.

No responsibility entrusted to the United States Senate is more important than the duty to participate in the process of selecting the judges of the United States courts. Our role in the confirmation process is different from any other business that comes before the Senate. Most other decisions that we make are subject to revision, either by the Congress itself or by the Executive Branch. Statutes can be amended, budgets rewritten, appropriations deferred or rescinded. Of the legislative sins we commit in haste we may repent at leisure. But a judicial appointment is different; it is for life.

The decisions of a judge of an inferior court are subject to correction in the appellate process. If the system works as it should, no lower court judge can stray too far from the law of the land. But a Supreme Court Justice is different. In Justice Robert Jackson's famous dictum: "That tribunal is not final because it is infallible; but it is, in a constitutional sense, infallible because it is final."

Precedent must control a lower court's disposition of a constitutional controversy. But for the Supreme Court of the United States, precedent is a path that the court may usually—but need not always—choose to follow. Judge Scalia, if confirmed, will be charting new routes and correcting old courses. The Senate has an obligation, therefore, to find out, as best we can, where the nominee would take us, before we decide to empower him to take us here.

The Supreme Court has an unparalleled power under our constitutional system to advance the cause of liberty, or to impede it; to strengthen the foundations of republican government, or to undermine them. That may help to explain why the Framers of the Constitution thought that the power to appoint Justices was too important to be reposed in the hands of one branch of government alone. Of this sharing of power—the President's to nominate, the Senate's to confirm—Alexander Hamilton wrote, "It is not easy to conceive a plan better calculated than this, to produce a judicious choice of men for filling the offices of the Union." In the process that begins today, the nation once again puts Hamilton's assertion to the test, as we have done more than one hundred thirty times before in our history.

Judge Scalia merits our congratulations. He is the President's choice for an office of unsurpassed importance. But I think he also needs some good luck, for the scrutiny this nomination has received, will receive, and should receive must be thorough and exacting. The Constituion, and the oaths of senators to support and defend the Constitution, demand no less.

For when we carry out our duty to advise the President and consent to his choice, as our predecessors first did nearly two hundred years ago, our loyalty, like theirs, is neither to party nor to the President, but it is to the people, and to the Constitution they have established. If we cannot recognize and act upon that higher loyalty when we confirm judges, we cannot demand it of the judges that we confirm.

#### EXPERT ANALYSIS OF SDI COSTS

Mr. PROXMIRE. Mr. President on August 10, the Washington Post published the analysis by two independent experts of the possible cost of SDI or star wars. Barry Blechman, one of the authors, is the president of Defense Forecasts. He is also a fellow of the Johns Hopkins University Foreign Policy Institute. His coauthor is Victor Utgoff. Utgoff is a deputy director of the Strategy, Forces and Resources Division of the Institute for Defense Analyses. In the view of this Senator, the analyses are optimistic. It is likely that they sharply understate the cost of the strategic defense initiative. This is specially true of the cost of annual operations of the antimissile system. The cost of annual operations is specially difficult to determine. It depends on the success of counter measures taken by the Soviet Union.

Obviously every success the Soviets achieve in developing technology that can spoof, or overwhelm or penetrate the star wars defense will require an additional SDI expenditure to provide an effective defense against the countermeasure. Assume a star wars confrontation with an offensive nuclear attack. Which has the advantage? The star wars defense—or the nuclear offense? Consider: The offense can select the time of attack. It can pick the volume of attack. It can determine the place of the attack. It can select from variety of offensive options the particular weapon it will use for the attack. The defense must be prepared at all times. It must be ready for any volume of attack. It must be prepared at every place of attack. It must be ready for any of a variety of weapons the offense can use in the attack.

Does this increase the cost of effective defense? Of course, it does. It increases the cost of defense immensely. Does this open series of options for the offense decrease the likelihood of successful defense? It does, indeed. So Blechman and Utgoff can and do give us an informed judgment of the cost of a variety of star wars system. They can give us no estimate of the chances

of success of any of these systems. Obviously, the chances of successfully achieving the purpose of each of the four defensive systems they describe will vary with how willing the United States is to spend whatever money it takes to meet the oncoming Soviet offensive nuclear technology. If the Soviets stand pat with their present arsenal and their present technology the Blechman-Utgoff estimate of the cost of SDI may turn out to be reasonably accurate. But if the Soviet Union is determined to remain a superpower, the cost of each of these systems will be far higher than the Blechman-Utgoff estimates. Based on its military build-up to date, the Soviets will do everything in their very considerable ability to remain a superpower. This is why the modernizing cost of the various SDI systems will be far greater, that is by a factor of 5 or 10 than these estimates.

The least expensive of the four systems analyzed is called Alpha. It is designed to make U.S. nuclear retaliatory "unattractive to attack." It consists of ground-based interceptors, early warning aircraft and long and short range interceptor aircraft. Estimated cost \$160 billion.

For another \$10 billion of a total of \$170 billion the Alpha system can become a Veta system. It can provide "limited protection" of the 47 most densely populated areas of the United States and Canada. SDI would add this extra protection with additional ground-based, long-range interceptors near high population densities.

Mr. President, it is obvious that neither "Alpha" nor "Beta" come close to meeting the objective stated repeatedly by President Reagan of a missile defense system that would provide for the protection of the American people. Even if Alpha and Beta were successful the Soviet Union would still hold our cities hostage. Mutual assured destruction or MAD would continue to be our policy. The main contribution of Alpha and Beta would be to further strengthen the survivability of this country's nuclear deterrent. And why isn't that a worthy purpose even at a cost of \$160 or \$170 billion. Answer: The U.S. nuclear deterrent is already 50 percent deployed in submarines which are invulnerable now and would gain no additional invulnerability from either Alpha or Beta. Twenty-five percent of our deterrent is deployed in bombers which would receive little or no protection from either Alpha and Beta. The remaining ground based deterrent could be far more cheaply converted to a mobile land based Midgetman mode. In that mode it would get only marginal protection from either of these two systems.

The other two SDI systems are described as Delta and Gamma. Both would be designed to provide comper-

hensive, that is total defense including population defense against Soviet long range missile and aircraft, plus an option to defend against intermediate range missiles. The Gamma system would include the Beta components of interceptors and early warning aircraft interceptor missiles deployed in low Earth orbits controlled by battle management satellites. The Delta system would include the Beta system plus chemical lasers in low Earth orbits controlled by battle management satellites.

Cost of Delta \$670 billion. Cost of Gamma \$770 billion. Mammoth as these costs are they would not cover the cost of modernization which would certainly be required by the year 2012. By 2012 we would have to deploy ground based free electron lasers that could hit fast burn Soviet missiles. By 25 years from now the Soviet Union will certainly have mastered a fast burn ICBM technology. What would it cost us to meet that technology? The former head of the Livermore Laboratory, a man who is also a former Defense Secretary, that is Harold Brown told the Appropriations Committee a few months ago the cost would be around \$100 billion each and every year indefinitely.

Would such a system fully deployed effectively defend our cities. Almost certainly it would not. It would be the most complicated technology ever assembled. It could obviously never be tested. It would have to work and work perfectly the first time. The odds that it would not work are very great, indeed.

Mr. President, I ask unanimous consent that the article to which I have referred in the August 10 Washington Post be printed in the RECORD.

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

[From the Washington Post, Aug. 10, 1986]

WHERE MONEY WOULD COME FROM

(By Barry M. Blechman and Victor A. Utgoff)

The United States could afford to deploy a strategic defense system, if it chose to do so. But it would have to divert substantial resources from other military and civilian activities.

We have prepared cost estimates for four possible versions of strategic defense, shown above. The most expensive system, which we call "Gamma," would entail annual expenditures on the order of \$44 billion during its 10 most demanding years.

This is a large amount of money; more than a 15 percent real increase in the current level of defense outlays. It would represent a commitment of roughly one percent of the nation's resources for this single purpose for a sustained period of time. Such a commitment, however, would raise defense expenditures to only about 7 percent of the gross national product, a figure which has been far exceeded during wars, and matched or exceeded for all but a few of the peacetime years from 1945 to 1970. (Since 1970,

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We looked at the U.S. net international investment position, and again saw that just in the last 2 or 3 years, the United States has fallen into a deficit position with regard to investment, and that situation is worsening every month.

We looked at the amount invested in plants and equipment by American businesses, and again saw a decline in the 1980's from the level of investment in plant and equipment that we have enjoyed in either the 1960's or the 1970's.

Those were some of the economic indicators we looked at.

Mr. President, based on these trends—I believe they are irrefutable trends—we then went on to try to fashion a list of concrete recommendations that we could make to try to come to grips with some of the underlying problems causing these adverse economic trends. We came up with 11 specific, concrete legislative recommendations which are contained in the measure I introduced a few moments ago.

Those proposals include efforts to improve our ability to monitor information on foreign technological developments. We suggest that an office be established in the U.S. Patent Office which would do technology assessment forecast and outreach.

We also suggest that in the Department of Commerce, a new onsite function be established in foreign embassies—five foreign embassies, in particular—for the establishment of an Office of Technology Assessment, for the new technological developments occurring in foreign nations.

The PRESIDING OFFICER. The time yielded to the Senator from New Mexico has expired.

Mr. BINGAMAN. I thank the Chair. We will return to this subject later.

□ 1050

Mr. DOLE. Mr. President, I apologize to my colleagues. We were attending the joint meeting with the Brazilian President. I would just take a couple minutes of the leader's time and reserve the remainder of my time.

#### REHNQUIST AND SCALIA

Mr. DOLE. Mr. President, this morning the Senate begins final deliberations on the President's Supreme Court nominations. He has chosen two men of unimpeachable character and credentials to shoulder the tremendous responsibilities of our Nation's highest court.

They have endured microscopic inspection in the Judiciary Committee. And they have seen and heard more than their fair share of political rhetoric. But as far as this Senator is concerned, William Rehnquist and Antonin Scalia have passed inspection with flying colors.

So, in case there is any doubt at all—or if the critics harbor any hopes at all—let me indicate again that Justice Rehnquist and Judge Scalia in my opinion will be confirmed by the Senate and they will be confirmed by overwhelming numbers.

#### GRAFFITI SMEAR

I am aware of the last ditch attempt by some to derail William Rehnquist's confirmation to be the new Chief Justice.

In truth, however, it is just another attempt to deface a brilliant career, and I do not believe it will succeed.

Ever since the President nominated these two dedicated jurists, the newspapers, the radio and TV and the Halls of Congress have been filled with all kinds of technical legal talk. It can be confusing and arcane for any of us; and certainly, it may not be clear to many Americans who are following this story. But if you cut through all the legalese, the case boils down to one simple fact: Those who would torpedo these nominations are liberal, and the President's nominees are conservative.

#### CARRYING OUT THE REAGAN MANDATE

But it just seems to me that the people voted for Ronald Reagan by landslide proportions in 1980 and 1984. And they expect the President to carry their mandate all the way to the Supreme Court. That means the Court will be a people's court, not a court for special interests.

#### SALUTE TO THE CHAIRMAN

Mr. President, I salute the chairman of the Judiciary Committee, the distinguished senior Senator from South Carolina, Senator THURMOND, for his superb handling of the President's Supreme Court nominations. His work in the committee was exemplary: The deliberations moved quickly, but not so fast as to deny any Member—or any point of view—their fair chance and their fair hearing, and that is important in the process in the Senate.

We do have a tremendous amount of work to do before we adjourn. These are important nominations. They deserve full and complete debate.

And having said that, I would hope that we could move as quickly as possible on both these nominations.

The issue has been more than explored by the committee. It is time to wrap up the Supreme Court nominations and move on to the business that awaits us.

I am reminded again by the Attorney General that we are getting into the fall term and it is very important that these two justices, Judge Scalia be confirmed as a Justice and Justice Rehnquist be confirmed as the Chief Justice, so they will be prepared to participate in the fall term.

#### CONTRA AID

Mr. DOLE. Mr. President, let me also just indicate very quickly that I have received a letter from the President this morning. The President, recognizes our heavy work schedule prior to sine die adjournment which I still believe should come on October 3. It is going to require working on Mondays and Fridays in both the House and Senate and there may be a Saturday session or two, but I believe we can complete our work.

But the President is very concerned as he has a right to be about our failure to act on the \$100 million for Nicaraguan freedom fighters. The President indicates:

The Nicaraguan freedom fighters cling to our promise of assistance. The affirmative votes of the House and Senate have confirmed congressional commitment to that goal. However, months have passed since House action and weeks have passed since the Senate reaffirmed its position. In the intervening time, supplies of food and medicine have been drained and the ability of the democratic resistance to defend itself has been significantly reduced. There has been no lack of resolve on the part of the Soviets or their proxies in arming and sustaining a regime that clearly seeks to destroy the hope of freedom for millions in Central America.

The President is right. We have been starving the freedom fighters around here for the past several months. It is by design. It is deliberate. We understand there will now be an effort by the Democratic leadership in the House to further delay coming to grips with this issue by somehow attaching the Contra aid provision to the so-called continuing resolution.

Now, in my view, that is not what the majority of Americans and I think the majority of Congress had in mind.

This is a very sensitive issue. It is a very controversial issue, but it has been decided. It has been decided twice in the U.S. Senate with a bipartisan vote. If we want the Russians, the Cubans, and the Communists to strengthen their beachhead in that part of the world while we sit back and do nothing, in fact, do less than nothing, refusing to help those who want freedom and liberty, then I believe we have made a grave mistake.

I would also suggest that this is a concern of the distinguished subcommittee chairman, Senator MATTINGLY. On his behalf I submit the following statement.

#### MILITARY CONSTRUCTION CONFERENCE STALLED

Mr. President, on behalf of Mr. MATTINGLY, I wish to state that 1 month ago today, on August 11, the Senate began consideration of H.R. 5052, the fiscal year 1987 military construction appropriation bill. Three days later, after much debate, the Senate passed that legislation. That bill contained the funding for critically needed improvements to the airfields, the ports,