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National Priorities Challenge 100th Session of Congress

The following address was delivered by SENATOR SAM NUNN to the Fellows and guests at the 1987 Spring Meeting of the College in the Great Hall of the Boca Raton Hotel, Boca Raton, Florida.

Thank you very much President Chappell; Justice Stevens; Former President Segal; President-Elect Harrell; Immediate Past President, my good friend and fellow Georgian, Griffin Bell; members of the American College of Trial Lawyers and distinguished guests.

First, let me thank you Mr. President for that generous introduction. I've been in the Senate of the United States now about 14 years and more and more I find myself being introduced in my own state as Georgia's senior citizen rather than Senior Senator. Maybe I've been there too long.

I always get nervous during introductions because some of them are rather hazardous. I have a friend of mine in Augusta, Georgia who is a doctor; he was preparing a very long introduction one night and the program went on and on before it became time for him to introduce me. I saw his wife telling him to scratch through a lot of his notes. He was scratching through one thing after another. Finally, he got up to introduce me. Everything went alright until the very end when he said, "Ladies and gentlemen, since this young man has been in the U.S. Senate, he's been vitally involved in fraud, waste and abuse. He had scratched through the words 'the fight against'. A rather crucial omission.

President Chappell, I thank you for the introduction and I also thank you for what must be a very challenging job; that is, following in the footsteps of Georgia's illustrious Griffin Bell, your Immediate Past President. Don Regan in Washington would call your job now Head of the Shovel Brigade. But knowing Griffin as I do, maybe he didn't leave too much residue.

You know, I think it's wonderful when a prestigious, sophisticated and very well-known organization like yours will take an innocent country lawyer, like Griffin Bell, and raise him to the top of your organization. Griffin is quite a lawyer. Some of you know his modus operandi. When I think of the way Griffin practices law, I'm reminded of a story about this fellow who went to the race track. He was rather modestly dressed, kind of a country fellow. About five minutes before the betting was to close, he went up to the window and placed a \$1,000 bet on Big Bob. He came back about two minutes before the race and told the clerk, "I want to bet \$5,000 on Big Bob." About this

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National Priorities (Continued)

time a well-dressed gentleman tapped him on the shoulder, said, "Wait just a minute. Let me talk to you." He got the country fellow off to the side and he said, "Mister, there are five horses in this race and I have a certain degree of sympathy for you. I watched you place a \$1,000 bet on Big Bob and now you're about to bet \$5,000 on Big Bob. There are five horses in the race and Big Bob is the slowest horse in the race. I know because I own him." The country fellow looked up, thought a minute, smiled and said, "Well, Mister, let me tell you something. It's gonna' be a damn slow race then because I own the other four." That's the kind of country lawyer that Griffin Bell is.

**"... THE SENATE WILL FACE WELFARE REFORM,
TRADE ISSUES AND CATASTROPHIC HEALTH CARE
INSURANCE... THE BUDGET WILL BE RIGHT AT THE
TOP OF THE LIST."**

Well, speaking of a damn slow race, the 100th Congress has just started. We have a number of issues to put in priority. I know that you are going to hear from some of my colleagues from the Senate during the course of this meeting, so I won't cover what they will discuss.

The Senate will face welfare reform, trade issues and catastrophic health care insurance. Of course the budget will be right at the top of the list. When you get all these issues churning, with foreign policy issues, arms control issues, defense issues, and the current investigations concerning Iran and the Contras, the Senate must establish priorities. You can't get involved in all those things at one time and that's one of the things that's most difficult in Congress. I'm reminded of a politician, I won't say where he came from or even what political party he came from, but he was elected within the last four or five years, who had a press conference the morning after his election. He had a very close election. He had pulled an upset. No one thought he would win. He got all the members of the news media in from around the state. They were asking him questions and finally one of them said, "Well, Senator, you've just been elected. What is your top priority for your own home state?" Well, he hadn't expected that question. So he thought a minute, got a little bit rattled, and said, "Well, I've thought it over now and my top priority for our beloved home state is to make certain this beautiful state never becomes a nuclear suppository." Well, you have to be careful about your priorities and the way you articulate them.

Our country lawyer friend, Griffin, has asked me to speak a few minutes this morning about some of the issues that are really my priority issues because I am involved in the Armed Services Committee and in many of the foreign policy and arms control issues. Trying to summarize the last six or seven years, in terms of what has happened in our defense arena, beginning in the last year to year and a half of the Carter Administration, going through the Reagan Administration, we've had a very large growth, almost unprecedented growth, in defense expenditures in terms of peacetime expenditures. We went through an era back in the 1970's after Vietnam in which we not only drew down following that Vietnam experience in terms of our military forces, but we also eroded a great part of our military strength that had been built up in the past. We had a real downturn in the early and mid 1970's. However, by 1978-79, in the last two years of the Carter Administration, we started having real increases in defense spending which were greatly accelerated in the

Reagan Administration over the last six years.

I get questions frequently about where we stand now. Where do we stand compared to the Soviet Union? That's a very difficult question to answer because it depends on the assumptions. It depends on where the war is fought. The closer we are to our own shore, if we had a conventional, non-nuclear showdown, in the Central American region for example, if there was a full application of our military power, there would be no doubt that we would have a very substantial advantage.

If we had a war between the United States and the Soviet Union in some place that was equidistant from the two super powers, some place way out in the middle of the Pacific, or some place where you had to project power over a great deal of distance, we would have an advantage because we can project power with our aircraft carriers, our military transport, better than the Soviet Union. If you get close to the Soviet Union periphery and, if you look at a map, that periphery covers most of the strategic areas of the world, then they start having a substantial advantage with conventional power. So you have to put it in that overall framework.

With respect to nuclear power there is considerable debate. Some people believe that we have disadvantages with nuclear weapons, some people believe that the Soviet Union has outpaced us. In certain categories that is true, no doubt about it. In terms of land-based missiles, accurate land-based missiles with large megatonage which we call First Strike Weapons, there is no doubt the Soviet Union has an advantage. That's what we're trying to negotiate in arms control. We're trying to begin to reduce, if not eliminate, their capability to launch a first strike, and that's what we worry about. We worry about a bolt-out-of-the-blue first strike. It's very unlikely it would ever happen, but it is also the most dangerous scenario we can imagine for the world. So you have to guard against the least likely, but most dangerous scenario.

"WE'RE TRYING TO BEGIN TO REDUCE . . . THEIR (U.S.S.R.'S) CAPABILITY TO LAUNCH A FIRST STRIKE."

However, we have certain advantages with nuclear weapons that people don't talk about. We have better survivability in our submarine force. I think we have a real advantage with submarines. We have a real advantage in what we call ASW or Anti-Submarine Warfare. We have an advantage with American technology.

We have an advantage with our American bomber force. We have a new stealth bomber that will be very hard to detect. So America does have advantages. In the nuclear area, I would say overall we are in a position of parity although there are certainly areas in which we need to improve. There are certain areas that could make the world safer if we succeed in arms control.

Looking at where the money has gone over the last six or seven years, there are four or five ways we measure our own internal forces. First of all, the quality of manpower. In the mid and early 1970's, we went to a volunteer force. Our services had not anticipated the great degree of difficulty they were going to have recruiting and retaining quality manpower. We went through a real tough time in terms of our quality of overall military personnel. That has turned around. I would say the number one achievement over the last six years has been that our quality of manpower has greatly improved.

"THE TOP (MILITARY) PRIORITY OF THE REAGAN ADMINISTRATION HAS BEEN IN MODERNIZATION . . ."

There is another measure and that is force structure. Looking at our forces, how many wings do we have in the air force? How many divisions in the army? How many ships in the navy? In spite of the large expenditures, we have had almost no build up in force structure with the exception of the navy. We have had increases in the navy in terms of the numbers of ships. So there has not been a large increase in our overall force structure.

Another measure of military power is readiness and sustainability. The ability to be ready when a war breaks out, the ability to sustain that force in a war. Those measures have improved though, in my opinion, not commensurate with the dollars that have been spent. So we have some real challenges there in terms of management, in terms of making those dollars go further.

The top priority of the Reagan Administration has been in modernization, making our military equipment in every branch of the service more modern. We are about half way through that program roughly speaking. The army is not that far along, the navy and air force are more than half way there. Modernization has been the highest priority, today that is also our biggest challenge. In the last several years, we have seen too many programs start for the number of dollars we have available. You hear about waste in the defense budget. That is one of our real problems in public perception. There is, no doubt, waste in the defense budget. You hear about coffee pots. You hear about hammers costing \$600. Those things are regrettable and they have to be addressed, but the big

waste in the Department of Defense is not in those areas. The big waste is simply that we have started far too many weapons systems for the number of dollars available. As we're cutting down the budget, trying to do something about the fiscal policy, you're cutting the production rate of those production items, those weapon systems already being produced. That produces monumental inefficiency because you have geared up overhead, tooling, supplies, all of that for a large production rate, let's say 100 units a year, and you cut that down to fifty units a year, stretch those programs out, and you're literally wasting billions and billions and billions of dollars of overhead.

**"... THE DEPARTMENT OF DEFENSE
... MUST INCREASE THE EFFICIENCY
OF PRODUCTION LINES ...
TERMINATE MARGINAL PROGRAMS
... AND MONITOR NEW STARTS
VERY CAREFULLY."**

This year, one of the principle priorities of our Armed Services Committee is attempting to devise some formula whereby we begin to send a message to those in the Department of Defense that they must increase the efficiency of production lines, that they must terminate marginal programs that are not being produced efficiently, and that they must monitor new starts very carefully.

That's one of the things that's most difficult to understand about the defense budget. But it's most important. Most new starts don't cost much in the first two years. They start costing a lot of money down the road. Last year, for instance, six new programs started. The total cost of those six programs in the first year was about two and a half billion dollars. Two and a half billion dollars in the overall scope of a 300 billion dollar defense budget is not that large. Over a ten year period, however, those same six programs will cost a total of 180 billion dollars. So when you make a new start, you're not committing just that year, you're committing a great deal for the future. And that is one of our principle challenges.

Our other challenges relate to making the defense department work better. I would say one of the biggest accomplishments of the last six years was the so-called Goldwater-Nichols Reorganization Bill last year. On a bipartisan basis Senator Goldwater, I and our counterparts in the House worked on this bill for about three years. I won't go into the details of reorganization. Suffice it to say that we are increasing the power of the people in uniform out in the field. People like Bernie Rogers who heads up our forces in the European theater. People that head up our forces in the Atlantic and the

Pacific. These are the military leaders, the generals and admirals, that have charge of more than one service. They're not just in charge of army troops, or navy troops, or air force troops, or marine troops, they're in charge of all the services. And as President Eisenhower said way back in the 1950's, we'll never have another large war, or even small war, that is not fought by multiple services. The services have to learn to fight together and to do that, they have to work together in peacetime and they don't do that well today. So we're trying to strengthen those elements in the Department of Defense including the Chairman of the Joint Chiefs and what we call Combatant Commanders who are in charge of more than one service, who think beyond parochial lines and who plan in peacetime how they're really going to fight in wartime.

I heard a story that is supposedly true, about General Marshall when he was retiring. This great general had been in all sorts of positions and he was having a party when he was finally retiring from about his fifth major position. Former Ambassador Joseph Grew was introducing him. He was going through the whole litany of accomplishments that General Marshall had over his lifetime. He said, "Ladies and gentlemen, this great general has been head of the United States Army, he has been the head of our Joint Chiefs, he planned and implemented our World War II effort more than any other single individual. He then came back and served as Secretary of State, he served as Secretary of Defense." There was a whole line of dignitaries there, General and Mrs. Eisenhower were sitting at the head table. Ambassador Grew continued, "And yet with all of these accomplishments, when he could, if he wanted to, even be elected President of the United States, he has such immense respect, General Marshall is such a modest gentleman, that all he wants to do now is go down in Virginia and spend the rest of his life on his little farm with Mrs. Eisenhower." Well, the Ambassador was horrified. He didn't know what to say. He sat down and he was blushing and he was humiliated and he wrote a little note to Mrs. Eisenhower which said, "Dear Mrs. Eisenhower, my profound apologies. Please express my deep regret to the General." Mrs. Eisenhower read the note, she was fuming a little bit, she wrote back and said, "Which General?"

**"... THE DEFENSE BUDGET WILL
BEAR ABOUT HALF OF EVERY
DEFICIT REDUCTION PACKAGE ..."**

Well, in reorganization we are talking about which general has the power and that bill, I hope, over the next five to ten years, will really turn around how we are managing our overall defense efforts.

In terms of challenges, I won't go into details, but we have a great number of challenges. The deficit challenge is the first and foremost challenge in the defense budget because until we have an overall path towards a balanced budget, both expenditure cuts and some revenue increases, we're going to see a continued downward spiral in the overall defense budget. That is because the defense budget will bear about half of every deficit reduction package and that means that it's going to be under very severe pressure.

We also have another major challenge, a combination of problems with which the western world has not yet come to grips. It involves the public citizens. It involves the fear that our public citizens have of nuclear weapons which is a legitimate, real fear. That fear is not just in the United States, it's probably even more prevalent in Europe. We have what I call a growing nuclear allergy and, at the same time, unknown to an awful lot of people, particularly in Europe, who don't acknowledge it, we have profound, conventional, non-nuclear weaknesses, particularly in areas that are crucial to the overall security of the West. First and foremost, I would say the central European theater is one of those areas. There, the Soviets have an overwhelming advantage with their tank armies. They also have overwhelming advantages in southwest Asia and, of course, that path leads right to the Persian Gulf. That's why their presence in Afghanistan in addition to the terrible human plight, is also a strategic consideration and must be one of our first and foremost priorities in discussions with the Soviets. We can't afford simply to talk about arms control. We have to also insist that they remove their forces from Afghanistan and I'm hoping we can make some progress on that.

So that combination of growing nuclear allergy and conventional imbalances is one that I would say is at the top of the list of challenges for the next five to ten years. If a pollster asked the question, "Is it the United States' policy to be the first country or the first power to use nuclear weapons in the event of a conventional war?", I think you would probably find that eighty percent of the people would answer, "No." Well, that would be wrong.

For a long number of years, the United States and our NATO allies in Europe have had the express, open policy that if we have a conventional attack from the Soviet Union, unless we can stop that with conventional weapons, we would be the first to use nuclear weapons. We would be the first. That's our policy. That's why those of us who follow defense got very alarmed when we witnessed the meeting at Reykjavik, at which the President of the United States had a serious discussion with the General Secretary of the Soviet Union, even though no final agreement was reached, about abolishing all strategic nuclear weapons within a ten year period. We depend on our nuclear weapons to make up for conventional deficiencies. That kind of discussion, while

idealistic in terms of concept and certainly laudible in terms of long-term goal, should not even begin to occur until we've done something about the conventional deficiencies we have, either through western build up of conventional power or through Soviet draw down of their huge force in some form of verifiable arms control arrangement. So conditions precedent to that kind of discussion are absolutely essential.

I'm reminded of the old saying about the sinner's prayer which goes like this, "Lord, make me chaste, but not just yet." That's the way we must approach this overall balance of power because it is crucial and we have to be aware of the history and where we've been if we're to know where we're going to go.

In terms of other challenges, this is a subject of a speech in itself, let me just touch on it briefly. Our European allies must do much more. For a long time they have depended on America's nuclear power. They are prosperous countries. They have very high rates of growth. They also have a tremendous number of social programs and we welcome all of that, but if they're really going to defend their country in the future, combining this nuclear allergy with conventional reality, they're going to have to do a lot more in terms of their contribution. Just to give you one example, we spend about 100 billion dollars a year for American forces that are in this country, not in Europe, that would go to Europe in a war, about 100 billion dollars a year. If they got to Europe about D-Day plus ten or fifteen, that would be about the time our allies give out of ammunition. So our troops arrive just in time for another Dunkerque or for the white flag of surrender or for the nuclear bombs to start going off. None of those are attractive alternatives.

" . . . WE ARE FIGHTING AS AN ALLIANCE AND WE MUST INSIST THAT OUR ALLIES DO THEIR PART."

Another example — we've spent about sixty billion dollars on the best aircraft in the world. We have the best planes, the best quality of pilots, with the possible exception of Israel, which has a real and present danger and a real incentive to be good. When those aircraft arrive in Europe in a war, right now they would have no shelters and they would have no place to refuel or to be resupplied. That means we are spending huge amounts of money over here for forces that are primarily designed to go to Europe in a war, but when they get there, they can fly only one time. The reason that has happened is because our allies have not provided the shelters or what we call the Minimum Essential Facilities to accommodate those planes. They pledged to do that in the late 1970's.

Suffice it to say that we are fighting as an alliance and we must insist that our allies do their part. We also are going to have to insist that the Japanese take another look at their role in the world. We spend about seven percent of our gross national product on defense plus some form of military or foreign assistance. The Japanese spend less than two percent, about one third of what we spend. Now I'm not saying the Japanese need to build a lot of aircraft carriers and start cruising near Pearl Harbor, that would alarm a lot of us, but I am saying that, with the huge third world debt, one of our tremendous economic and security problems, with all the problems in crucial areas of the world like Pakistan and Turkey, we need to insist that our Japanese friends do a lot more, not just in defense, but primarily in foreign assistance. Those are real challenges facing America.

In arms control, you've heard about the recent Gorbachev offer on intermediate nuclear weapons. He has de-linked the so-called Intermediate Range Weapons. These are the weapons that are stationed in Europe, the Soviet SS 20's, the United States' Pershing 2's and ground launch cruise missiles. These are weapons that will not strike the United States, but our weapons that are stationed in Europe will strike the Soviet Union. The Soviet Union has offered now to de-link those from the space talks and from the strategic talks. That is an important breakthrough. It does not mean that we're going to get an early agreement. We still have major problems with short range systems that aren't covered. In these systems the Soviets have an advantage. We also have a major challenge in trying to work out verification. We're down to the point now where it's going to take some on-site inspection if we're going to have verifiable agreements. That is a touchy subject, not only in the Soviet Union, but with some of our allies in Europe. When you think about the kind of verification you have to have to make sure that they really do destroy those weapons, you're talking about American inspectors going in Soviet military factories. You're also talking about Soviets having people stationed in this country, going in plants like Martin Marietta and General Dynamics. We're also talking about them going in plants in Europe. This would be a new, intrusive, verification regime.

We're also going to have a major debate this year on the ABM Treaty. The Anti-Ballistic Missile Treaty was entered into in 1971 by the Nixon Administration. The Reagan Administration has reinterpreted that treaty. For a number of years it was thought that the so-called narrow interpretation governed. Without boring you with the details, the Administration wants to go to a broad interpretation which would allow more SDI-type testing. We're going to have a big debate on that. I have personally been doing an enormous amount of research in that area. Nothing is drier, nothing is more boring than the Anti-Ballistic Missile Treaty. I said yesterday on television, not completely facetiously, that when you start really understanding that matter, you're half way to

insanity. I think I am moving close to that range. The real debate should be on substance rather than legalistic principles, but we have been thrust into this legalistic debate. I'm reminded of a story about W.C. Fields, the great comedian. He was on his death bed. He'd been an agnostic most of his life. He was seen, by one of his close friends, reading a Bible as he was nearing the end of his life. His friend was shocked. He said, "W.C., what are you doing?" W.C. replied, "I'm looking for loopholes." We're going to be looking for loopholes in the next few weeks.

"... THE SOVIET UNION IS THE ONLY NATION IN THE WORLD THAT IS SURROUNDED BY UNFRIENDLY, COMMUNIST COUNTRIES."

Putting all these matters in perspective, and I think we do have to keep our perspective, we have many challenges in the West. We have many problems, especially in the areas of defense and foreign policy. But if you back off and you look at our problems and you look at the Soviet problems, you begin to get a real perspective. The Soviet Union has serious population problems. The Russian part of their population is dwindling compared to the other parts and they are seriously worried about it, not only in terms of being able to furnish enough workers and enough manpower in military and economic matters, but also in terms of who really is going to be the majority in the years ahead in that colossal empire called the Soviet Union. They have ethnic problems. They have a serious problem with Moslem fundamentalism. We think we're frustrated with the Iranians, if anything, the Soviet Union is even more fearful about what's going on in Iran because the Soviets have a huge Moslem population and they're not quite sure what kind of response they're going to get in the years ahead in that respect. The Soviets have another problem with their neighbors. Someone said, but not completely facetiously, that the Soviet Union is the only nation in the world that is surrounded by unfriendly, communist countries. It's true. If you were a Soviet military general and you were asked to assess your ability to invade western Europe, you would have to tell the Politbureau that there are a few things I'm not sure of. I'm not sure what happens to our supplies going across Poland. I'm not sure what the Chinese might do on the border. I'm not sure what our other eastern European friends might do if we get bogged down at the front. So they have some big challenges. They look awesome on paper and they indeed are, but they have some real problems with their allies who are not quite the most reliable in the world. As frustrated as we get at times with our allies, and we do with cause, we have a much, much stronger position than the Soviet Union does. We can be grateful for our allies even though

the fact they're independent and sovereign is sometimes a frustration, they are also a great asset for us.

In terms of their economy, the Soviets have major challenges. It is my belief that the Soviet economy is simply incompatible with the Information Age. They were able to get by with a communist, totalitarian regime with the massive production in the so-called Industrial Age, not very efficiently, but much better than they're doing in the Information Age. The Information Age, the world of computers, the world of technology, is incompatible, in my view, with totalitarian systems. And I think that is what Gorbachev is trying his best to tell his own people. It's going to be a long, difficult road. We have fascinating things happening in the Soviet Union now. Not because they're marching off towards Jeffersonian democracy or a bill of rights, but because they have concluded, at least large portions of them in leadership have concluded, that their economy simply doesn't work.

Finally, in putting things in perspective, as much as we distrust the Soviet leadership, as much as we detest their form of government, sometimes we have to back away from all of that and search for mutual interests. We do have certain mutual interests with the Soviet Union. One mutual interest is rather apparent when you think deeply about it. They have approximately 10,000 nuclear weapons pointed toward the United States. If they chose to, before you go to lunch today, they could destroy this nation. Now they would be destroyed in return. Small comfort . . . small comfort.

"WE DO HAVE CERTAIN MUTUAL INTERESTS WITH THE SOVIET UNION."

We have a stake in the Soviet Union being able to detect the origin of a nuclear attack. Think about it. With 10,000 weapons pointed toward us, suppose they were attacked by a third country and they thought it was the United States. We have a real stake in that. They have a stake in our sensor systems. So we have some mutual interests that we're going to have to identify in this dangerous nuclear age. Senator John Warner, Republican from Virginia, and I have been working along with others for about five years now on a concept we call Risk Reduction. The concept is that the United States and Soviet Union would have some of their top military and civilian leadership meet, plan and be housed eventually in the same headquarters, perhaps in the Soviet Union and in this country. Their job would be to detect any nuclear weapon that was in the hands of a terrorist group, to work together in the area of preventing nuclear proliferation. To make sure, God forbid, if there ever was a

nuclear weapon that was in the hands of a terrorist group, or if a third country tried to start a war between the two super powers, that we would have in advance, planning mechanisms to allow the leadership of both super powers to not be blind-sided. We call this Risk Reduction. Secretary Gorbachev and President Reagan have discussed it. I'm very hopeful there's going to be some conceptual breakthrough in that arena rather soon.

" . . . IF MAN FINDS A SOLUTION TO WORLD PEACE, IT WILL BE THE MOST REVOLUTIONARY DEVELOPMENT IN THE HISTORY OF THE WORLD."

Let me give you a couple examples very briefly in closing. Suppose, for example, an F-4 aircraft — we've sold those aircraft all over the Middle East — with false U.S. markings on the wings, painted like a U.S. aircraft, flew in low over the Soviet Union and dropped one nuclear weapon on one Soviet city. What would happen? What would the country that shot down an innocent passenger plane from South Korea do in reaction to an obliteration attack on one of its cities? We don't know. We're not sure they do. Let's turn that around. Let's suppose a merchant ship pulled into the harbor of New York, or San Francisco, or Boston. The crew abandoned ship. Four hours later a nuclear detonation goes off, a small weapon, but one big enough to obliterate one American city. What would be the reaction of the people in this country? Would we immediately believe it was the Soviet Union? Would we demand retaliation, knocking out one Soviet city? What would we do? No one has thought through these matters. And they are clearly areas where we need to devote our thinking.

That great general I've already alluded to, General George Marshall, once said that if man finds a solution to world peace, it will be the most revolutionary development in the history of the world. In an age of nuclear knowledge, nuclear proliferation, and terrorism, our task is clear, but awesome. We must reverse the record of history. Thank you very much.

(Senator Sam Nunn, the Senior Senator from Georgia, has been a U.S. Senator for fourteen years. Born in Perry, Georgia, on September 8, 1938, Senator Nunn attended Georgia Tech University, and received his law degree in 1962 from Emory University. Following active duty, he continued military service for six years as a U.S. Coast Guard Reserve. Senator Nunn represented Houston County for two terms in the Georgia House of Representatives prior to his election to the Senate. He currently serves as Chairman of the Senate Armed Services Committee as well as the Permanent Subcommittee on Investigations.)

"Connecticut Lawyer Responds for Inductees"

The following address was delivered by Theodore I. Koskoff on behalf of the new Fellows inducted at the 1987 Spring Meeting in Boca Raton, Florida.

President Chappell, Past President Jennings, Honorable Robert R. Merhige of the U.S. District Court, Dean Carrington, President-Elect Morris Harrell, Honorable Patrick E. Higginbotham of the U.S. Court of Appeals for the 5th Circuit, Professor of Law John W. Reed of the University of Michigan Law School, Distinguished Guests and Colleagues.

I appreciate the opportunity of giving the response on behalf of all of the Inductees, committed as we are to the purposes and objectives of this great organization and to the Constitution of the United States in its two hundredth birthday year.

Our Bylaws describe our objectives in part as "dedicated to improvement and enhancement of the standards of trial practice, the administration of justice and the ethics of the profession." Despite denigrating attacks on our profession, we have maintained total fidelity to our clients. In the ABA discussion on the new Model Code of Ethics, the American College of Trial Lawyers, in an historic defense of the principles of the lawyer-client relationship, fought to preserve that relationship and to prevent collectivist society notions of the lawyers' role to creep in to minimize that role. In doing this, the College performed the role assigned to lawyers by Mr. Justice Storey who described lawyers as "sentinels on the outposts of the Constitution."

In the midst of the nit-picking, midget-minded criticism of lawyers by some, I like to think of lawyers in the perspective of history — I like to think of the best and the brightest, the most dedicated, like members of the American College of Trial Lawyers. And then I say to myself, if you are a lawyer, what are you? Who are you?

If you are a lawyer, you stand between the abuse of governmental power and the individual. If you are a lawyer, you stand between the abuse of corporate power and the individual. If you are a lawyer, you stand between the abuse of judicial power and the individual. If you are a lawyer, you are the hair shirt to the smugness of complacency of society, and if you are a lawyer, you are helping to mold the rights of individuals for generations to come.

In short, if you are a lawyer, you are the trustee of our liberties.

This is our creed; this is our commitment; this is our holy grail.

And who do we see who have performed this historic role in this anniversary year of the miracle at Philadelphia?

I saw him so long ago, a Philadelphian in New York, the Philadelphia lawyer at the nation's first political trial, upholding John Peter Zenger's right to publish what he chose free from censorship or interference. His name was Andrew Hamilton, and he was a lawyer. I saw him at the trial of Captain Preston, another political trial, the unpopular cause and client arising out of the Boston Massacre. His name was John Adams. He was a lawyer. I saw him at that miracle in Philadelphia, the Constitutional Convention of 1787, fighting for the Bill of Rights, the credo of American freedom not adopted until 1789. His name was James Madison. He was a lawyer.

I saw him presiding over the Supreme Court of our land, the architect of the real powers of the Supreme Court. His name was John Marshall. He was a lawyer. I saw him exhorting the battle cry of the Republic, "Give me liberty or give me death." He was a firebrand patriot. His name was Patrick Henry. He was a lawyer. I saw him at Gettysburg with tears in his eyes, gaunt and morose, rededicating our country to the principle of equal justice for all. His name was Abraham Lincoln. And he was a lawyer.

And I saw him, an elemental man, fighting for one cause or another in Dayton, Tennessee, preaching the legitimacy of evolution. His name was Clarence Darrow. He was a lawyer. I saw him speaking to us from his wheelchair, lifting our spirits, making us stronger with his inspirational philosophy, "The only thing we have to fear is fear itself." His name was Franklin Delano Roosevelt. And he was a lawyer. I saw him in the Senate hearing room in Washington, uttering his anguished cry for decency. His name was Joseph Welch. And he was a lawyer.

And I thought of the precious monuments they had left to their lives and of Milton's wonderful comment on Shakespeare, "Thou in thy wonder and astonishment have left thyself a monument." And I wondered what kind of monuments you and I will erect for the 300th birthday of the Constitution. Not a monument of brick and mortar. That kind does not last. But one that will live like a thought, for only a thought lives. And finally, I thought of that marvelous admonition of Holmes, when almost a hundred years ago, he said, "I think that as life is action and passion, it is required of man that he should share the passion and action of his time at the peril of being judged not to have lived."

(Theodore I. Koskoff is a partner in the Bridgeport, Connecticut, firm of Koskoff, Koskoff & Bieder.)

ACTL Report on Federal Judicial Salaries Project

For many years the College has played an active role in efforts to improve federal judicial salaries. The results have been disappointing, but nevertheless cumulatively significant.

Over a period of years, representatives of the College have attended, by invitation, meetings of the Federal Judicial Conference's Committee on the Judicial Branch. Spokesmen for the College have made written submissions to, and have testified before, the last several Quadrennial Commissions on Executive, Legislative and Judicial Salaries.

The Fifth Quadrennial Commission, which reported to the President in 1985, made no salary recommendation, but made procedural recommendations to which Congress responded by providing for a special Interim Commission. That Commission was required to make its recommendation to the President by December 15, 1986; he in turn was to make his recommendation to Congress, and, unless both houses rejected his recommendation within 30 days, it would automatically become effective. The Commission was appointed. Its members included ACTL Past President Robert L. Clare, Jr., of New York.

The College joined with the Corporate Committee for the Fair Compensation of the Federal Judiciary in financing a comprehensive study and report prepared by two law firms, working together, which dealt in depth with the historical problem of the compensation of the federal judiciary and other high-level federal officials, the problem of declining real income, and the salary gap, in the case of judges between their compensation and incomes of lawyers in private practice. The three-volume report, entitled, "Promises Made, Promises Still Unkept: Restoration of Inflation-Induced Salary Cuts for Top Government Officials," dealt comprehensively with the problem of federal judicial compensation as well as the similar problems in the other branches. The report, we understand, was viewed as an important resource by the Commission and proved to be very useful in its deliberations.

In addition, President R. Harvey Chappell, Jr. made a written submission to the Commission on behalf of the College, emphasizing the need for substantial increases in federal judicial salaries and making specific recommendations.

The Commission held no hearings but, in December 1986, after considering the written materials before it, made the following recommendations for judicial salary increases, which were very close to those the College had made to the Commission:

	<u>Current</u>	<u>Recommended</u>
District Judges	\$ 81,100	\$130,000
Circuit Judges	85,700	135,000
Supreme Court Justices	107,200	165,000
Chief Justice	111,700	175,000

In early January, the President made his recommendations to the Congress, which drastically reduced the figures the Commission had recommended. The President's recommendations called for increases of approximately 10% for district and circuit judges and 2½% to 3% for members of the Supreme Court:

District Judges	\$ 89,500
Circuit Judges	95,000
Supreme Court Justices	110,000
Chief Justice	115,000

Even these modest increases, and their counterparts for the other two branches, encountered heavy opposition in Congress, the story of which has been reported in the media and will not be recounted here. The net result for judges was that the raises recommended by the President became effective March 1.

These salary levels were extremely disappointing to the Board of Regents and other Fellows who had worked and hoped for a much longer stride toward reducing the compensation disparity between the judiciary and the bar. Nevertheless, it should be recognized that the efforts to improve federal judicial salaries, in which the College has played an important role, have produced some results. In 1980, for example, the salary fixed by Congress for a Circuit Judge was \$57,500. Although some of the increase to the present \$95,000 is attributable to inclusion of judges, for a time, under the Executive Cost-of-Living Adjustment Act, about 60% of that increase resulted from presidential recommendations made after receiving the reports of the 1980 and 1986 Commissions.

Notwithstanding this progress, the compensation of federal judges is still grossly inadequate, when compared with both family needs and compensation of comparably qualified lawyers in private practice. In the decade of the 1960's, only seven federal judges resigned; in the 1970's 24 resigned; in the 1980's 27 have resigned so far. The Board of Regents believes inadequate judicial compensation has been a major cause of this trend. Improvement in federal judicial salaries will continue to be a College goal of the highest priority.

(This report was prepared by Regent Philip W. Tone, Chicago, Illinois.)

AMERICAN COLLEGE OF TRIAL LAWYERS

MEETING SURVEY

The American College of Trial Lawyers historically has held its Annual Meeting and Annual Banquet the weekend before the summer Annual Meeting of the ABA. In order to ascertain your attendance pattern and preferences, it would be helpful and appreciated if you would complete the short questionnaire below and return it to the National Office of the ACTL. Thank you for your valuable opinion.

In the past five years, how many summer Annual Meeting/Banquets of the American College of Trial Lawyers have you attended?

Circle Each Year Attended

1982 San Francisco

1983 Atlanta

1984 Chicago

1985 London

1986 New York

Of the above ACTL Annual Meetings you attended, did you also attend the American Bar Association Annual Meeting or other meetings of affiliated organizations?

Circle Each ABA Session Attended

1982 San Francisco

1983 Atlanta

1984 Chicago

1985 London

1986 New York

Please check which one of the possibilities below you would be most likely to attend.

☐

ACTL Annual Meeting prior to ABA Meeting as it now is scheduled.

☐

A separate ACTL Annual Meeting held at a different time either in a resort or city with a professional education program (CLE) as part of the meeting.

☐

No ACTL Annual Meeting at all.

Which type of meeting do you usually attend?

Check All That Apply

☐

Spring

☐

Annual

☐

Regional

☐

State/Province

Which type of locations would you find acceptable for ACTL Meetings?

Check All That Apply

☐

Resort

☐

Large City

☐

Foreign Destination

☐

Metropolitan areas too small for ABA, but acceptable for ACTL (for example - Boston, Seattle, San Antonio, etc.)

Comments/Suggestions: _____

Signature _____

Please forward to: American College of Trial Lawyers
10889 Wilshire Boulevard, Suite 711
Los Angeles, California 90024

College News

SPRING MEETING

The Boca Raton Hotel and Club, Boca Raton, Florida, was the setting for the 37th Spring Meeting of the College this year, held March 8-11. Prior to the meeting, the Board of Regents assembled and, with the guidance of President R. Harvey Chappell, Jr., the Board reviewed the nominations to Fellowship which numbered 226. A total of 156 nominations were accepted.

President-Elect Morris Harrell provided an outstanding Professional Program with speakers covering topics of national and international scope. Following the opening invocation by Past President Bernard G. Segal, President Chappell introduced one of the program's keynote speakers, United States Senator Sam Nunn, Senior Senator from Georgia. As Chairman of the United States Armed Forces Committee, Senator Nunn's address to the College concerned itself primarily with United States military priorities and appears as the featured article of this Bulletin.

United States Senator George J. Mitchell from Maine, ranking Democrat on the Select Committee to investigate the Iran/Contra affair, spoke to the College on the many ramifications of that issue.

Eugene C. Thomas, President of the American Bar Association and a partner in the firm of Moffatt, Thomas, Barratt & Blanton, Boise, Idaho, spoke on the condition of the legal profession in the United States and covered some of the important matters that will present themselves to the profession this year and within this century. Bryan Williams, Q.C., President of the Canadian Bar Association and a Fellow of the College from Vancouver, British Columbia, addressed the commonalities and differences existing between Canadian and United States legal

systems. Mr. Williams is a partner in the firm of Swinton & Company.

Also in attendance was one of the College's distinguished Honorary Fellows, Associate Justice John Paul Stevens, United States Supreme Court. Mr. Justice Stevens reported on several recent Supreme Court decisions.

The Honorable Robert R. Merhige, Jr., Judge, United States District Court for the Eastern District of Virginia, addressed the topic "Professionalism and Sanctions," and Paul D. Carrington, Dean and Professor of Law, Duke University School of Law in Durham, North Carolina, provided remarks on Legal Education. Dean Carrington's address will be featured in the summer edition of the Bulletin.

The Honorable Patrick E. Higginbotham, United States Court of Appeals, Fifth Circuit, Dallas, Texas, and John W. Reed, Professor of Law, University of Michigan, Ann Arbor, Michigan, also gave of their knowledge and time by speaking to the College during its General Session.

Both professional seminars were well attended. The first seminar topic, "Tort & Insurance: Crisis? - Reform?", was chaired by John M. Harrington, Jr., FACTL, from the Boston, Massachusetts, firm of Ropes & Gray, and moderated by Professor Stephen A. Saltzburg, University of Virginia, Charlottesville, Virginia, with panelists Kenneth S. Abraham, Professor of Law, University of Virginia, and Glen O. Robinson, Stennis Professor of Law, University of Virginia. "Innovative Trial Techniques - An Overview of Kinds of New Techniques in Jury Selection and Litigation Support," with speakers Dr. Donald E. Vinson and Dr. Philip K. Anthony, from Litigation Sciences, Inc., Los Angeles, California, completed the roster of seminar programs.

Secretary Marvin Schwartz presented the 1986 winning team of the National Moot Court Competition, which included Scott C. Lovejoy, Donna D. Sisson and Karen S. Williams, from Wake Forest University, Winston-Salem, North Carolina. Scott C. Lovejoy winner of the Best Oral Advocate, accepted the award on behalf of his team.

Past President Alston Jennings delivered the traditional Induction Charge, welcoming the new Fellows into the ranks of the College. Theodore I. Koskoff, of Koskoff, Koskoff & Bieder, Bridgeport, Connecticut, responded on behalf of the Inductees; his response appears in this Bulletin.

1987 ANNUAL MEETING

The 1987 Annual Banquet of the College is scheduled for Saturday, August 8, 1987, at the Hilton Hotel, San Francisco, California. The Annual Meeting will be held earlier that day at the Portman Hotel. ACTL registration forms will be sent to all Fellows in May and should be returned promptly, as registration will be limited. Room reservations can only be made through the ABA Meetings Department. All questions concerning hotel accommodations should be directed to the ABA.

1987 EMIL GUMPERT AWARD

The Emil Gumpert Award for excellence in the teaching of trial advocacy has been granted to Washington University School of Law, St. Louis, Missouri. The presentation of the award plaque and a check for \$25,000 was made by Regent Charles E. Hanger at the Law School Student Honors Convocation at the University on April 15, 1987.

MEETING SURVEY FORMS

A copy of the original Meeting Survey form recently mailed to all Fellows is reprinted in this Bulletin for your additional convenience in responding.

WELCOME TO NEW FELLOWS

The College welcomes the following new Fellows who were inducted into Fellowship on Wednesday, March 11, 1987, in the Great Hall of the Boca Raton Hotel, Boca Raton, Florida.

CALIFORNIA

Ontario

HAROLD J. LANCE

CONNECTICUT

Bridgeport

THEODORE I. KOSKOFF

FLORIDA

Miami

GERALD F. RICHMAN

GEORGIA

Albany

EDGAR B. WILKIN, JR.

Atlanta

THOMAS S. CARLOCK

ILLINOIS

Chicago

STEPHEN E. SWARD

IOWA

Des Moines

THOMAS A. FINLEY

Sioux City

WILLIAM J. RAWLINGS

KENTUCKY

Elizabethtown

REFORD H. COLEMAN

MARYLAND

Rockville

JAMES A. SULLIVAN

MICHIGAN

Grand Rapids

THOMAS J. McNAMARA

Kalamazoo

J. WILLIAM DARK

MINNESOTA

Fairfax

JOHN W. CAREY

Minneapolis

DAVID F. FITZGERALD

GEORGE W. FLYNN

OHIO

Columbus

THOMAS E. PALMER

SOUTH DAKOTA

Rapid City

THOMAS E. SIMMONS

Sioux Falls

ARLO D. SOMMERVOLD

Winner

WILLIAM F. DAY, JR.

WASHINGTON

Seattle

ROBERT D. DUGGAN

WISCONSIN

Madison

JOHN M. MOORE

Milwaukee

MAURICE J. McSWEENEY

L. WILLIAM STAUDENMAIER

ALBERTA

Edmonton

RODERICK A. McLENNAN

BRITISH COLUMBIA

Vancouver

IRWIN NATHANSON

NEW BRUNSWICK

Fredericton

J. GORDON PETRIE

QUEBEC

Montreal

J. J. MICHEL ROBERT

Calendar of Events

1987

• **May 8-9:** New Mexico Fellows Meeting: Ruidoso, New Mexico

• **June 5-8:** Northeast States Regional Meeting: Bald Peak Colony, New Hampshire

• **June 10:** Georgia Fellows Annual Banquet: Savannah, Georgia

• **June 11:** Tennessee Fellows Dinner: Knoxville, Tennessee

• **June 12:** Florida Fellows Dinner: Lake Buena Vista, Florida

• **June 12:** Texas Fellows Luncheon: Corpus Christi, Texas

• **June 12:** Kentucky Fellows Luncheon: Louisville, Kentucky

• **June 19:** North Carolina Fellows Dinner: Asheville, North Carolina

• **July 19-21:** Northwest States Regional Meeting: Salishan, Oregon

• **Aug. 7:** Board of Regents Meeting: San Francisco, California

• **Aug. 8:** 1987 Annual Meeting and Banquet: San Francisco, California

• **Aug. 14-16:** Iowa Fellows Meeting: Galena, Illinois

• **Sept. 9-11:** Wisconsin Fellows Meeting: Green Lake, Wisconsin

• **Sept. 11:** Illinois Fellows Meeting: Skokie, Illinois

• **Sept. 16:** Michigan Fellows Meeting: Grand Rapids, Michigan

• **Sept. 17-20:** Tenth Circuit ACTL Regional Meeting: Park City, Utah

• **Sept. 30-Oct. 2:** Eastern States and Provinces Chairmen's Workshop: White Sulphur Springs, West Virginia

• **Oct. 8-10:** Western States and Provinces Chairmen's Workshop: Phoenix, Arizona

• **Oct. 29-Nov. 1:** Tri-State (AL, FL, GA) Meeting: Point Clear, Alabama

• **Oct. 30-Nov. 2:** District of Columbia and Maryland Fellows Meeting: Williamsburg, Virginia

• **Nov. 5-8:** Southwest States Regional Meeting: Tucson, Arizona

• **Nov. 7:** Connecticut Fellows Dinner: New Haven, Connecticut

1988

• **Mar. 6-9:** Spring Meeting: Palm Desert, California

President's Report



R. Harvey Chappell, Jr.

This interim report to the Fellows highlights a few of the College's activities apart from the State and Regional Meetings and the State and Province Chairmen's Workshops.

Williamsburg Conference

For the first time in the history of the College the Board of Regents and the Past Presidents met in Williamsburg, Virginia, November 21-22, 1986, for the purpose of reviewing the College's growth and its activities since its organization in 1950, and six basic areas of inquiry were addressed. The consensus which emerged from their discussions is as follows:

1. Governance of the College

The current alignment of Regents according to Federal Circuits having just commenced, it will be reviewed from time to time to see how it works. Full participation by the Canadian Fellows is urged and the Nominating Committee for Regents should continue to consider in normal course Canadian Fellows for nomination to the Board. There should be no change in the present nominating process for Regents and Officers. The incorporation of the College should

not be considered further at this time. There also should be no effort now to conform the terms of the Officers to the College's fiscal year; the question should be revisited if the schedule for the Annual Meeting is changed.

2. College Headquarters and Staff; College Publications

The National Headquarters will remain in the Los Angeles area and in view of the fact that the present office space in the Kirkeby Building is inadequate, new and additional space in the same building has been leased for a two-year term, at which time the situation will be reviewed. Additional office equipment including a larger computer, word processors, a printer, new mailing equipment and office furniture are to be obtained as determined to be necessary by the Executive Committee. No additional staff is likely to be required in the next three to five years. The College publications policy appears to be working well and no change is warranted.

3. College Meetings and Relationships with American Bar Association and Other Professional Groups

Solely because of the growth of both the American Bar Association and the College, problems have arisen with reference to the Annual Meeting and the needs of both groups as to meeting space and living accommodations. For example, because of the needs of the ABA, the Fairmont Hotel will not be available for the Annual Meeting of the College in August in San Francisco; however, the Banquet will be held at the San Francisco Hilton on Saturday, August 8, 1987, in accordance with the customary schedule. Consideration is to be given to holding the College's Annual Meeting in subsequent years in the fall, probably in conjunction

with a full program of interest to the Fellows. In all events, the impact of such a fall meeting upon the College's regional meetings will be taken into account and there will be discussions with the leadership of the ABA. In addition, data will be obtained on how many Fellows come each August to the site of the ABA meeting solely for the purpose of attending the College Banquet, as well as the interest of the Fellows in attending a meeting or banquet later in the year. CLE programs at regional and state meetings will continue if the state committees involved in planning and conducting such meetings are so inclined. The groupings of states participating in regional meetings (which are growing in popularity) should be determined entirely by the Fellows of the states involved without reference to the Federal Judicial Circuits.

4. Finances

The line item budget is a useful development and this budget format will be improved such that it becomes more helpful in managing the affairs of the College. Budget proposals will continue to be prepared by the Executive Director and submitted to the Executive Committee and the budget, once approved by the Executive Committee, will be submitted to the Board for its approval. It further was determined that the Executive Committee is authorized to retain investment counsel who may be given discretionary authority with respect to no more than one-half of the College's investment portfolio. The Foundation was discussed and it was determined that the structure should continue in its present form, but that the Officers and Board of Directors of the Foundation should report to the Board of Regents from time to time its recommendations, if any, for increasing the assets of the

(Continued)

President's Report *(Continued)*

Foundation and enlarging its activities.

5. Implementation of the College's Objectives as Set Forth in Bylaw II

The College's objectives as set out in Bylaw II were discussed at length. A commitment to professionalism is one of the basic purposes of the College. Every effort is to be made to involve as many Fellows as possible in the affairs of the College. The College will continue to be highly selective in determining those issues as to which the College takes a position. In all activities of the College it will be emphasized that the College and its Fellows are dedicated to the improvement and enhancement of the standards of trial practice, the administration of justice and the ethics of the profession.

6. The Fellows

All materials relating to the standards of the College for the admission of Fellows are to be reviewed and consolidated including, in particular, a complete statement of the College's admissions policy. Steps are to be taken to impress upon members of the State and Province Committees the College's standard of excellence and each Regent shall attend at least one meeting each year of each State and Province Committee for which he has liaison responsibilities. Every effort will be made to have full participation by the Fellows in the annual poll of nominees.

In sum, the participants in the Williamsburg Conference were satisfied with the progress the College has made, but recognize that we must be continually alert to areas of improvement.

Task Force on Litigation Issues

The Task Force on Litigation Issues, chaired by John M. Harrington, Jr., met in Washington, D.C. on February 20-21, 1987, continuing its exploration of the over-arching issues discussed in the Task Force Report of August 8, 1986. Some of these issues were the subject of an afternoon seminar at the Spring Meeting in Boca Raton. The Task Force will report its recommendations to the Board of Regents.

Federal Judicial Salaries

The College consistently has supported efforts to increase the salaries of the Federal Judiciary. A position paper was submitted to the Interim Commission on Executive, Legislative and Judicial Salaries on October 31, 1986. This subject is discussed elsewhere in this Bulletin in a report by Regent Philip W. Tone.

Emil Gumpert Award

The Emil Gumpert Award Committee met in New Orleans on January 10, 1987, to consider applications from the various law schools. The Chairman, Paul D. Renner, had a full agenda for the Committee's consideration and a report was made to the Board of Regents at its Boca Raton meeting.

National Trial Competition

The National Trial Competition Committee, under the leadership of Robert J. Muldoon, Jr., participated in making arrangements for and the conduct of the Competition which took place in San Antonio, Texas, from March 18th through March 21st. The College hosted a reception on Thursday evening, March 19th.

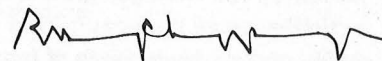
Spring Meeting at Boca Raton

The 1987 Spring Meeting was held at Boca Raton, Florida, March 8th through 11th. President-Elect Morris Harrell arranged for an outstanding professional program and our Executive Director, Bob Young, and his staff provided most pleasurable social functions. A review of the Spring Meeting Program appears earlier in this Bulletin.

Annual Meeting at San Francisco

The 1987 Annual Banquet and Meeting will be held at the San Francisco Hilton on August 8, 1987, and you will be receiving information concerning this shortly. The induction ceremony for new Fellows will occur at the Annual Banquet and following the Reception and Banquet there will be dancing and the traditional sing-along.

Ann and I hope to see many of you in San Francisco in August.



R. Harvey Chappell, Jr.