SENATE—*Thursday, September 23, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Our opening prayer will be delivered by the Reverend Patrick J. Gillooly, pastor of St. Vincent de Paul Church, Berkeley Springs, W. Va. He is sponsored by Senator JENNINGS RANDOLPH of West Virginia.

PRAYER

The Reverend Father Patrick J. Gillooly offered the following prayer:

Let us pray.

O God, You who are the source of all wisdom, whose statutes are good and gracious and whose law is just and true, guide and direct our Senators that they may, by just and prudent laws, promote the well-being of all our people.

Almighty God, Our Father, You have charged each of us with the task of building on this Earth a home where all the nations may dwell in unity, liberty, justice, and peace. We pray for strength and purpose to help these Senators, Your servants, in fulfilling their roles of service and responsibility. May they seek justice and protect the weak and lead us all in constructing institutions for our peace and mutual aid. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

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

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the recognition of the distinguished Senator from Florida (Mr. CHILES) on a special order of not to exceed 15 minutes, there be a brief period for the transaction of routine morning business to extend not past the hour of 10:45 a.m., in which Senators may speak for not more than 3 minutes each.

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

SENATE SCHEDULE

DEBT LIMIT BILL

Mr. BAKER. Mr. President, after the opening business is transacted, including morning business as just provided, House Joint Resolution 520 will become once more the pending business. I would remind Senators a cloture vote is to occur at 12 noon today without the prior live quorum as prescribed by rule XXII.

Mr. President, I expect that there may be a motion or motions today in respect to this bill. I fully anticipate there will be amendments offered to this bill. It is my intention, Mr. President, if it is humanly possible to do so, to finish this bill today because time is running out. We have spent more than 50 hours of debate on this measure. We began it on August 16. We have just about used all the time I think the Senate should commit to this measure. Therefore, Senators will understand, I am sure, when I say that notwithstanding agreement that we would have a debate on prayer and on abortion, and that Senators would have an opportunity to offer amendments to this bill otherwise, that that must be done to the extent that the calendar and the clock will permit that to be done today.

We will be in late, if necessary. I hope that is not the case, but Senators should be prepared to remain late, even very late. I will request the Secretary of the Senate to advise those who operate the Senate facilities to be on notice that we may be very late.

Mr. President, it is my hope that the matter will be dealt with promptly and smoothly, and that we can finish responsible action on the debt limit bill today and still honor the commitments that have been made to all Senators in respect to this bill as a vehicle for many purposes.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. When does the majority leader anticipate action on the continuing resolution?

Mr. BAKER. Mr. President, the continuing resolution is being marked up today, I understand, by the Committee on Appropriations. It has now been received from the House of Representatives. I am advised that they should have that bill to us and available on Tuesday, I believe, of next week. It is my intention to take it up as soon as possible.

Mr. ROBERT C. BYRD. I thank the majority leader.

HUD APPROPRIATIONS

Mr. BAKER. I may also say in that same vein, Mr. President, that the HUD appropriations bill is here. It is the first one of the House-passed appropriations bills to reach us and fully qualify under our rules. It would be my hope to go to that first appropriations bill, the first 1 of the 13, today, if not tomorrow.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. I thank the President pro tempore for permitting me to be relieved of my commitment to him and to the Senate to take up S. 995, because otherwise there was a commitment to do that after we finish the debt limit. But Senators should be on notice that we will go to the HUD appropriations bill.

Mr. President, I have no further need for my time under the standing order. I offer it to the minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. I thank the majority leader for the time. I accept it.

Mr. President, I yield such time as I may have remaining to the Senator from Mississippi.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Mississippi.

Mr. STENNIS. I thank the minority leader.

AMENDMENTS ON ABORTION AND SCHOOL PRAYER

Mr. STENNIS. Mr. President, my remarks will be brief. They will cover the matter of the Helms antiabortion amendment and the pending Helms amendment relative to school prayer. Let me first say I do not make any personal reference to the author of those amendments or any other Member of the Senate. I have known them a long time and have friendly and kindly feelings for them and about them. I am sympathetic with the problems they are trying to solve. My remarks do not relate to the leadership, either the mi-

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

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nority leader or the majority leader. The Nation is blessed, absolutely blessed, to have these men in these positions at this time.

I want to clear up some of the confusion about the abortion issue—and I think it is confusing to the public. The fact is that the matter of abortion has been up here many times in many forms, and our Appropriations Committee has passed on it many times. I know we have spent dozens and dozens of days on it. I think one year we voted 24 times on the subject of abortion.

I am totally opposed to abortion on demand. I have supported what is called the Hyde amendment, which is rather strict and binding. It was not something I read in a book. I learned as a boy the idea of morality and the conception of right and wrong. That included the concept that elective abortions are wrong. That is what I believed then and what I believe now, regardless of any procedural vote that I have cast in the last few days.

On prayer in schools, Mr. President, I was very much concerned with the Supreme Court decision when it was handed down in 1962. I was the first Senator to offer a constitutional amendment to reverse the Court's ruling. I offered it the very next day after the Supreme Court's decision. The debate and the consideration of the school prayer constitutional amendment went on for a year or a year and a half and more. The proposed constitutional amendment that I introduced was Senate Joint Resolution 204 and it appears on page 11713 of the CONGRESSIONAL RECORD of June 26, 1962.

Mr. President, I ask unanimous consent that a copy of the resolution which I have referred to and the statement I made in support of it which also appears on page 11713 of the CONGRESSIONAL RECORD of June 26, 1962, be printed in the RECORD at this point.

I also ask unanimous consent that a statement which I made in introducing Senate Joint Resolution 206, which was identical to Senate Joint Resolution 204, be printed in the RECORD at this point. This statement appears on page 12217 of the CONGRESSIONAL RECORD of July 3, 1962.

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

There being no objection, the statement was ordered to be printed in the Record, as follows:

[From the CONGRESSIONAL RECORD, June 26, 1962, 11713]

JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES TO PERMIT THE USE OF PRAYER IN PUBLIC SCHOOLS

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. No provision of this Constitution or any article of amendment thereto shall be construed to prohibit nondenominational religious observance through the invocation of the blessing of God or the recitation of prayer, as a part of the activities of any school or other educational institution supported in whole or in part from public revenues, if participation therein is not made compulsory.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

Mr. ROBERTSON. Mr. President, on behalf of the Senator from Mississippi (Mr. Stennis), I introduce the joint resolution which I send to the desk and ask to have appropriately referred.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 204) proposing an amendment to the Constitution of the United States to permit the use of prayer in public schools, introduced by Mr. Robertson (for Mr. Stennis), was received, read twice by its title, and referred to the Committee on the Judiciary.

STATEMENT BY SENATOR STENNIS

I have the conviction that people all over the country who rejoice in the spiritual heritage of this Nation were shocked, as I was, to learn that the Supreme Court has held that the permissive daily recital of a simple nondenominational prayer by public-school children breached the constitutional wall of separation of church and state. The prayer thus condemned by our highest Court did nothing more than acknowledge the pupils' dependence upon an Almighty God and ask His blessings upon them, their parents, their teachers, and their country. Only those who desired to do so joined in the recitation of this prayer; no compulsion was involved.

It is not my purpose or intent at this time to challenge point by point the rational of the majority opinion in this case. However, I could hardly believe my eyes when I read that the Court had held that the prayer, even though admittedly nondenominational, and even though participation in it was admittedly voluntary, violated the first amendment, which merely prohibits the Congress from passing a law "respecting an establishment of religion, or prohibiting the free exercise thereof."

With all respect, I think the Court has utterly misconceived a great constitutional principle. I, for one, cannot comprehend how a religion is established by permitting schoolchildren who wish to do so to say a simple prayer. It is my belief that by this decision the Court has twisted freedom of religion into a quarantine against religion.

I submit that it offends both reason and logic to contend that the now outlawed prayer in any manner resulted in the establishment of any religion. The prayer is nonsectarian and nondenominational. The opinion of the Court concedes that participation in it is without compulsion. Under these circumstances few will believe that any real question of the church dominating the state is involved, and I have always been of the opinion that this was the basis of the constitutional provisions upon the subject.

If there was any question of sectarianism involved, or any issue of favoring one religious group over another, the situation, of course would be entirely different. All we have here, however, was a conscientious effort to permit children who wished to do so to say that they believed in an Almighty God and to call forth His blessings. The Court has denied this right and the implications of its decision are enormous.

This, of course, is not the first time that the Court has departed so far from established constitutional concepts. There is a remedy, however, for the American people. It is by the process of a constitutional amendment, and I am today introducing an amendment designed to right the wrong which the Court has perpetrated. I realize, of course, that this is a delicate subject and one which needs and deserves careful study. However, I am convinced that, if necessary, my amendment can be perfected so that our constitutional guaranty of freedom of religion will be retained but will not in the future be allowed to become an instrument for the suppression of religion.

The voice of the people is already welling up in all of the corners of this Nation in protest against this decision, and I predict that the necessary amendment will be adopted by the Congress and ratified by the States quickly and decisively. The voice of those who believe in the spiritual heritage of this Nation and in the existence of a Supreme Being will be heard in an everswelling chorus.

Perhaps as never before in history we need today the comfort and support of moral and spiritual values. We here in the Senate do not deny ourselves the edifying effect of the eloquent prayers of our Chaplain. They give us faith and strength for our daily tasks. The children of our public schools, on a permissive basis, should not be denied the same privilege which we have established for ourselves. We should act promptly to fill the void in the spiritual life of our children which will exist by reason of the Court's decision.

[From the CONGRESSIONAL RECORD, July 3, 1962, 12217]

PROPOSED AMENDMENT OF CONSTITUTION TO PERMIT THE USE OF PRAYER IN PUBLIC SCHOOLS

Mr. STENNIS. Mr. President, on behalf of myself, and the Senator from Alabama (Mr. Sparkman), I introduce, for appropriate reference a joint resolution proposing an amendment to the Constitution of the United States to permit the use of prayer in public schools. I ask unanimous consent that the joint resolution may lie on the desk for 5 days so that any Senators who wish may join as cosponsors.

I state, for the information of the Senate, that this joint resolution is identical to the one introduced for the junior Senator from Mississippi on Tuesday last when he was absent. I reintroduce it for the purpose of making it possible for other Senators to join in the sponsorship of the joint resolution.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will lie on the desk, as requested by the Senator from Mississippi.

The joint resolution (S.J. Res. 206) proposing an amendment to the Constitution of the United States to permit the use of

prayer in public schools, introduced by Mr. Stennis (for himself and Mr. Sparkman), was received, read twice by its title, and referred to the Committee on the Judiciary.

I was particularly teamed up with the late Senator Robertson of Virginia on this matter. We finally reached the point where we could not go any farther, due partly to differences of opinion as to how to proceed among the group supporting a school prayer constitutional amendment.

I am still greatly interested in and very much concerned about the subject, but there is a time for all things, Mr. President. I am firmly convinced that it is our clear-cut duty now to put these proposed amendments aside for the time being.

Amendments to what? A bill to set the debt ceiling of our great Republic, which has never been short 1 hour, I am told—not 1 hour—in paying a legal obligation on the due date. It is essential that we move along, move everything else out of the way and get down to the passage of the resolution.

Mr. President, that is not all. The people are beset by these problems of high, intolerable interest rates. They have eased somewhat but are still too high. Unemployment is at an all-time high and is still growing with all the problems that go with it. Uncertainty is growing by the day with reference to world affairs. More uncertainty than that is growing by the hour with reference to our foreign trade, the balance of payments, and the basic things that can keep our factories open. The trend is against and that is why we have these problems.

The people see us discussing these matters, important as they are, the circumstances being what they are, and they wonder what in the world it means. We charge up the hill on these matters we say we are concerned about that I have just mentioned; and then we march back down the hill, the way it looks to them—that is just about right—saying that we have gotten very little done.

I think we ought to take that warning, when we put in issue the Senate of the United States. That is what is in issue here now on these pending amendments, not the persons, not the individuals, but whether the institution of the U.S. Senate is capable of transacting its business and putting first things first.

Mr. President, I am going to vote and work from here on toward the end of voting down these amendments, tabling them, or whatever means we use to get down to the real issue and pass this debt limit resolution. We can then move on the very best way we can to the appropriations bills and other things that directly affect these real problems that I have tried to outline briefly.

I thank the Senator again for yielding to me. I emphasize that there is not one iota of personal reference in all that I have said, except the complimentary remarks I made to our two leaders.

With that, I thank the Senator from West Virginia for yielding me this time.

Mr. President, I yield the rest of my time back to the Senator from West Virginia and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. The Senator from Florida is recognized.

CRIME FIGHTING BILLS

Mr. CHILES. Mr. President, once again, I am coming to the floor of the Senate to speak out on crime, and on the need for the Senate to act promptly to pass one of the two anticrime bills now pending on the Senate calendar. The first bill, S. 2543, was introduced by Senator NUNN and myself back in the middle of May. It is sponsored by 18 Senators. The second bill, S. 2572, was introduced by Senator THURMOND and Senator BIDEN the chairman and the ranking member of the Senate Judiciary Committee, just before Memorial Day. Both Senator NUNN and I are cosponsors of that bill, and there are now 54 Senators who have signed on as sponsors of this bill. Both of these measures have been on the Senate calendar now since Memorial Day, and both bills could have been taken up at any time since then.

I have to confess that I have been growing increasingly concerned and frustrated as time passed by, and the end of the session has drawn closer and closer. Earlier this summer, when the Senate had actually entered into a time agreement for the consideration of one of the bills, S. 2572, I felt confident that we would see action this session. But as the days and the weeks slipped by without any action, I became more and more alarmed. This is the 55th separate day that the Senate has been in session since the crime fighting bills were placed on the Senate Calendar, but there has still been no action on the bills. With as few as 8 days remaining in this session, I was becoming convinced that the only way to get action would be to force a vote on the issue. For that reason, earlier this week, Senator NUNN and I joined together in introducing the provisions of S. 2572 as an amendment to the debt ceiling bill. We figured it might be our only chance to put the Senate on record on fighting crime.

Yesterday, however, there was good news for all of us who are concerned over the need for the Senate to act on crime fighting legislation. Senator NUNN tells me that yesterday, the majority leader and the minority leader indicated on the floor of the Senate, that the Senate leadership will bring the anticrime bill up before the Senate prior to the time we recess in October. I am delighted with this commitment, and of course, I will do whatever I can to work to secure prompt passage of this bill. I still believe that if we can move the proposal through the Senate quickly, then we can get the House to act promptly, and get these important reforms passed into law this year. I commend the Senate leadership for deciding to commit itself to moving forward with anticrime legislation.

Mr. President, it is difficult to overstate the need for crime fighting legislation. On Sunday, the Justice Department released statistics which emphasize once again the need making the fight against crime a national priority second to none. The Justice Department reported that almost 25 million American households were touched by crime last year. This means that out of every 10 households in the United States, 3 were directly affected by crime problems last year alone.

According to the Justice Department study, it turns out that an American household is more likely to be hit by crime than it is to have one of its members injured in a car accident, or stricken by cancer or heart disease. The report went on to show that 7 percent of all American homes, some 5.8 million households, were victimized by burglary. In addition, some 3.3 million households or 4 percent of all the homes in the United States, had members who were attacked in a rape, robbery, or aggravated assault.

Mr. President, these are absolutely horrifying statistics, and they underscore the importance of the need to do something about crime. For too long, we have put up with high crime rates, unsafe neighborhoods, and a court system that seems to bend over backwards to accommodate the criminal defendant at the expense of the victim and of society at large. We in the Senate cannot stop crime singlehandedly. But we certainly can and must do our part to let criminals and the American public know that the Senate is doing its part to try to make our towns and cities safe once again. The bills before the Senate contain important reforms in our criminal justice system—tougher sentencing laws, bail reform provisions, tougher penalties for drug traffickers, provisions to fight organized crime—that will make it

easier to track down criminals, and then bring them to justice. If we pass them, we help fight crime on the Federal level and we also establish a model for State and local governments to use.

Today, we stand close to success. With two bills on the calendar, with a time agreement reached on one of the bills, and with the leadership's commitment to act before we break in October, we have an opportunity to speak out here in the Senate. But we must not let this opportunity slip by, and we must make sure that we move ahead as soon as possible on these important proposals. The safety and well-being of our communities is too important to leave until next year. I commend the leadership once again for their decision to move ahead, and I look forward to passing working with them to pass these crime fighting bills.

Mr. BAKER. Will the Senator yield to me for a moment?

Mr. CHILES. I yield.

Mr. BAKER. Mr. President, I commend the Senator from Florida for his persistence and the intensity of his devotion to this issue and his recognition and concern involved. He and the Senator from Georgia, the junior Senator from Florida, and the President pro tempore have spoken to me repeatedly and with great emphasis on the importance of doing this matter. Indeed, the senior Senator from Florida has spoken virtually every day for many weeks on this subject. So I am pleased to say that we are able to announce, as he properly recites, that this bill will be called up before we go out, hopefully, October 1.

I recall a trip I made to Florida to look into this matter; it was in conjunction with another matter, but while I was there I met with city, county, and State officials. I will repeat now what I said then. I was absolutely appalled at the scope of the problem as it was described to me by those officials, and it was the first time I had truly understood the dimensions of the problem.

It really came home to me at that time, and I came back to Washington and asked my staff to get in touch with the staffs of other Members, particularly the Senator from Florida and the Justice Department, to add emphasis to the urgency of this matter. The chairman of the Judiciary Committee, the President pro tempore, thoroughly agreed with that. After great effort and much compromise, the chairman of the Judiciary Committee and the ranking member (Mr. BIDEN), were able to report a bill on which we have a detailed time limitation.

Frankly, one of the things that has kept us from scheduling that bill until now is that time agreement. It is a strange thing to say, because time agreements usually facilitate passage of a bill; but this agreement runs more than two pages on today's calendar of business. I have recently totaled the time that is provided for in that order, and it is indeed a great deal of time.

It is time now to tackle this time agreement. It is my hope that all Senators would consider either relinquishing the time provided for in this order or severely abbreviating the time for debate; otherwise, it will take a long time to finish. I hope the Senator from Florida and others who have a vital interest in this matter will join in the effort to try to reduce the time.

Mr. CHILES. I will be delighted to join in that effort.

I say to the distinguished majority leader, who does have an appreciation for the problems in crime, not only in Florida but throughout the country as well, that I think everybody was so concerned that they got what they wanted, or wanted to keep something from going in, that it took about 3 days to put that time agreement together, with the patience and help of the majority leader.

I think we should be able to shorten the time drastically, especially because we are in the closing days of this session. I feel that every Member of this body should want to go home in October with the knowledge that the Senate had passed a major piece of legislation. So it is something that works for the benefit of all of us if we can get this done, and I think we should get it done speedily.

I hope again that, as quickly as possible, we can get on this, because then I believe we can work to pare it down.

Mr. BAKER. I thank the Senator, and I appreciate his offer of assistance.

Mr. CHILES. I thank the majority leader for his kind remarks.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business which will not last past 10:45 a.m., during which Senators may speak for 3 minutes each.

BILL DUNLOP DAY

Mr. MITCHELL. Mr. President, Saturday, September 25, 1982, is "Bill Dunlop Day" in Mechanic Falls, Maine.

Bill Dunlop established a world record for a solo crossing of the Atlantic Ocean from Portland, Maine, to Falmouth, England, in the smallest seagoing vessel ever, *The Wind's Will*, just 9 feet and seven-eighths of an inch long. This remarkable man and his feat have captured the attention of the world.

Dunlop grew up in Auburn, Maine, and joined the U.S. Navy. While in the Navy, he had a motorcycle accident and was severely burned. He did not give up. He later worked as a truck driver hauling potatoes to Florida, then hauling fruit back to Maine. He is self-taught in navigating techniques.

In 1980, he soloed on *The Enchantress* across the Atlantic from Portland, Maine, to Falmouth, England, and back again. In 1981, he sailed alone in *The Enchantress* to the Bermuda Triangle to learn something more about the mysterious disappearance of ships in that area.

On the morning of June 13, 1982, Dunlop sailed out of Portland Harbor for Falmouth, England. Almost the entire journey was spent in damp and foggy weather. He endured without radio contact and without his sextant. Stormy seas and whales larger than his vessel threatened to end his voyage. He ran out of provisions a week before landing. Despite these hardships, Dunlop did not give up. He reached the shores of Falmouth, England, without assistance on the morning of August 29, 1982.

Most members of our Nation will never know the depth of courage and perseverance Bill Dunlop required to withstand the ocean's moods and dangers. Bill Dunlop is a brave and determined man. He plans to continue his trip in 1984 from Falmouth, England, around the world.

He deserves the special recognition that the world has bestowed upon him and the day that the town of Mechanic Falls has named after him.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The PRESIDING OFFICER. The Senate will resume consideration of the unfinished business, which the clerk will state.

The Secretary of the Senate read as follows:

A House joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Was it indeed a bona fide clerk of the Senate who read the joint resolution?

The PRESIDING OFFICER. The Senator is correct. He is bona fide.

BAUCUS AMENDMENT NO. 2040 TO WEICKER AMENDMENT NO. 2039

Mr. WEICKER. Mr. President, today marks, I would hope, at least a drawing to the close of the debate on the issue that has been before the Senate now for at least the last several weeks, and no one should believe that because the debate has been extended that it has been trivial or that it has not touched upon a matter of enormous importance to this Nation.

As important as the subject of three separate but equal branches of Government is, it still has to take second place to the preservation of the first amendment and the unwillingness of many in this Chamber to see that amendment diluted even the slightest bit.

The Senator from Montana (Mr. BAUCUS) has very ably and very eloquently presented the case against court-stripping. Simply put in this Senator's mind, it is that every citizen of the United States is far better protected by three branches of Government than by any lesser number. As I speak before this Chamber this morning, every American has working on his behalf the executive branch, the legislative branch, and the judicial branch. Should the principle espoused in the legislation at hand be adopted, then that number three becomes merged into two.

That is a very large step. Unlike what in a minute I will attend to in terms of the matter of the first amendment and freedom of religion, which masquerades as a rather small initiative, the matter of court-stripping, the matter of three separate but equal branches of Government is a very large step insofar as the practical effect of the passage of this principle. So it would have been the case in the matter of abortion or so it would have been the case in the matter of court-ordered busing.

I wish that I could stand up and proclaim that the Senate of the United States has been in all cases the ultimate guardian of the rights of all Americans. Certainly it has its great moments in history, no question about it. But as a matter of routine, it has been the courts of the United States, staffed by Democrat and Republican alike, by liberal and conservative, that have proven to be the last haven, the last refuge, for all those rights that Americans attain either by virtue of law or by virtue of that law which is the Constitution of the United States.

If indeed the decision as to who has to go, should that be based on history, probably it would be in inverse order to what is taking place on this floor today; in other words, that the Senate or rather the legislative branch should be the first to go, and then the President, and then last the courts, in any event those who created this Government realized that in a pluralism of equal power should anything go wrong it could not last for long by virtue of having three separate but equal branches of Government.

I have been very heartened as I hear Senator after Senator stand up and speak on behalf of the courts of this Nation. Usually it is the most popular political sport to go ahead and throw darts at the Supreme Court, at the judiciary. Such has not been the case. One after another of my colleagues have taken to their feet and have described the importance of the judiciary, and have willingly risked their political careers to maintain the independence of the judiciary. Never mind its constitutional place in the scheme of political things here in the United States.

So it is Senator BAUCUS who has led that aspect of the debate. He has done so when both the polls and the head counts seemed to be against him. I want to express here my great admiration for his courage and my appreciation for his "stick-to-itiveness" and his eloquence.

Now we get to the matter of the substance, the matter of voluntary prayer in school. I would like to include in the RECORD at this point two opinions on this subject that appeared in the Washington Post, one as late as this morning and written by Richard Cohen, who, I might add, I think invariably writes some of the best material I have seen appear in any publication in this country.

Mr. Cohen's article is entitled "School Prayer":

Sometimes nothing so clarifies a debate as the muddled thinking of Ronald Reagan. This has happened in economics where suddenly no one is confused anymore about the efficacy of supply-side theory and this has happened, too, in foreign policy. A few words from the president and nothing looks as good as a nuclear weapons freeze. Now the president has given us his thoughts on school prayer. Let us pray he does not get his way.

In one of his Saturday radio addresses, the president came out for school prayer as a distinctly American tradition. He did not say if he was for the court-stripping bill of Sen. Jesse Helms, which would tell the court in no uncertain terms that only some parts of the Constitution are its responsibility—and prayer is not one. Instead, the president spoke in general terms about why school prayer would be a wonderful thing.

As he has before, he conscripted God in the service of patriotism. He said that George Washington prayed at Valley Forge but he did not say that the British commander probably did the same thing. He said that Abraham Lincoln cited prayer in his Gettysburg Address, but he did not point out that the men on the other side—notably Lee—prayed also, but given their strategic situation it was not enough.

But of course the president did not say that these were non sequiturs. What individuals do, even presidents, is their own business—in fact, their constitutionally protected prerogative. What school systems tell children to do is quite another matter. And it was here that the president, as he has done so many times before, put his finger on the nub of the problem. He did it by saying that the school prayer he advocates would be voluntary: "So everyone's rights—believers and nonbelievers alike—are protected by our voluntary prayer measure."

There you have it. The inevitable result of such a measure is to label people, in this case children, by their willingness to pray publicly. The president spoke of believers and nonbelievers, but these are not the terms children employ when taunting each other on the playground. The fact is, of course, that the children who do not choose to pray may not be nonbelievers at all, but believers in their constitutional right not to pray or believers in another prayer.

At any rate, they will be singled out, made to assert their nonconformity at an age—say 8 or 9—when nonconformity is painful, maybe doubly so because it is not their convictions at all they are asserting, but those of their parents. And their parents might have any number of reasons for insisting that their children abstain from a prayer ordained by the school board and led by a teacher who, incidentally, may not have any wish to serve as class pastor.

This is why school prayer has opposition. There is simply nothing voluntary about it. For a minority—precisely the group the Constitution is designed to protect—voluntary school prayer means that they have to assert their religious beliefs—or their lack of them. They have to declare, either by leaving the room or keeping their mouths shut, a religious or constitutional position. They have to line up one side or the other of the line the president has drawn in the ground—believer or nonbeliever.

The president used some hackneyed language in his speech. He asserted, as proponents of school prayer always do, that "God has been banished from the classroom." Surely, no school board can do that and no teacher can expunge God from a child's mind. And the president tried to link school prayer with the nation's religious traditions, but no one—not the most liberal member of the school board is telling anyone what they can or cannot do on their own time in their own home.

Children can pray before school and after school and even, if they want, at recess. They simply should not be told by the school when to pray and in what manner, and they should not be compelled by the government to declare, before their teachers and their classmates, whether they or their parents are, as the president said, "believers or nonbelievers." That is none of the government's business and if it becomes its business, then it is not God who will be banished from the classroom, but something else—respect for the rights of minorities.

The next article I would like to read was written by Father Timothy Healy, the president of Georgetown University.

This appeared in the Washington Post on April 11 of this year. The article is entitled "School Prayer? Unfortunately, No."

Mr. President, I notice my good friend, the distinguished Senator from

North Carolina, is in the Chamber. I just wanted to let him know that at any time of his own choosing he desires to speak, as I indicated last night, if he would let me know, he can certainly proceed. I would just like to make that point to him.

Father Healy writes:

That famous remark that those who ignore history are doomed to repeat it has curious relevance in the running debate about prayer in schools. Working out of the best religious motives, many Americans look not to repeat the history they have forgotten, but to reverse it. Their motives are good but their history has been scrambled.

From the earliest days of this republic, believing men and women cared deeply about what Archbishop John Carroll called "the virtuous instruction of youth." Founding Georgetown was part of his dream not only to make a learned clergy for the American Catholic Church, but to train students who would go home to teach.

In those days, all instruction was private, and it remained so until the beginning of the 19th century. The idea of tax-supported public schools first took hold under the leadership of the "Public School Society" in New York. This body of citizens fought strenuously for the public transportation of all the nation's youth and supported a bewildering variety of schools, even Roman Catholic ones, in the state and city of New York. The public schools they ran, however, took it coolly for granted that the instruction of youth should be Christian, and felt no qualm in equating "Christian" with "Protestant." The scriptures read, the prayers said, the riguals shared were all of Protestant cast and nature, and, to the fury of the immigrant parents, teachers felt little scruple about attacking the errors and evils of Romanism.

When Horace Mann became secretary of the Massachusetts Board of Education in 1830, he brought to his post his own understanding of religious tolerance, which stopped well short of what he called "that Vice Regent of Hell the Pope of Rome." Bishop John Hughes of New York struggled manfully, even to the extent of sponsoring several political candidacies, to get prayers and Bible reading out of the public schools in the city and state of New York. He wanted fully secular public schools, and only when he failed to get them did his attention and energy focus on the developing parochial school system. It is no little irony that so many who now share his faith agitate so strongly for the return of the prayers and the impossible choices they would impose.

Their motivation is of course clear and direct. So much can be said about the consciousness-raising of the heart and mind to God which we call prayer. To any believer, prayer is, as George Herbert says, "God's breath in man returning to His birth," and the now more than ever necessary "plummet sounding heav'n and earth." Indeed, for many of us, it is hard to see how one can labor at all for the "virtuous formation of youth," without allowing youth to experience "the soul in paraphrase, heart in pilgrimage" which is the act of prayer.

In the complex reality of a democracy, however, motive isn't always enough. We Americans glory in our diversity, our jumble of races and peoples, of languages and faiths, and find our respect for difference one of the master accomplishments of America. No such accomplishment comes without cost, and for all our yearning for it, prayer in the public schools may be just such a cost. The question is, "Whose prayer?" How do we find a formula acceptable to all, offensive to none, and not so general that it would merely echo the less inspired bits of Fourth of July oratory? Even George Herbert would have had trouble with that, and ultimately would have thrown up his hands in gentle sorrow and granted its impossibility.

America's enormous diversity, the multiplicity of faiths that cluster around the three classic ones in this nation, even our own adversarial approach to all schooling—all make sure that in this year of grace, 1982, the none choirs of angels could not design a prayer that would be acceptable to all our fellow citizens.

The sad imperative of our republic is that we must make our prayer private, or forfeit our civic peace; that we must hold "the Churches banquet" only in church and find the prayer Herbert calls "Softnesse, and peace, and joy, and love, and blisse" tied to the home and kept out of school. For all who understand prayer as "Churchbels beyond the starres heard . . . something understood," this is a needed but a sad conclusion.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Michigan (Mr. LEVIN) for the purposes of debate only, without losing my right to the floor, without this being considered as the end of a speech for the purposes of the two-speech rule, and that I be rerecognized at the conclusion of the Senator's remarks.

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

Mr. LEVIN. I thank my friend from Connecticut.

Mr. President, the issue before us is whether Congress should restrict the jurisdiction of the Federal courts to hear voluntary school prayer cases arising under the first amendment of the Constitution. But I join many of my colleagues who have made statements expressing strong opposition to any legislation—any legislation—regardless of the underlying issue, which would strip the Federal courts of jurisdiction to hear constitutional cases. And I emphasize the word "constitutional."

If we approve this amendment, we undermine the very integrity of the Constitution. Article V establishes a procedure for the Congress to propose and pass amendments to the Constitution when it reaches the conclusion that the Supreme Court's rulings on some constitutional issue should be overruled. Indeed, congressional disagreement with the Supreme Court provided the impetus for the introduction of several amendments to the Constitution. But we are circumventing that whole process of amending the Constitution by trying to strip the Federal courts of jurisdiction and, as a result, we will jeopardize and undermine the rights we have held sacred in this country for over 200 years.

Mr. President, when I spoke on the Senate floor in opposition to the Helms/Johnston busing amendment, I stressed that even though I generally dislike busing children away from their neighborhood schools, I could not support an amendment stripping the courts of jurisdiction to order busing as a remedy. I stated:

If the pending amendment is adopted by the Congress, I believe it will signal a new open hunting season on the Constitution. . . . There are nearly 30 bills pending in the Congress which would limit the jurisdiction of the Federal courts over constitutional claims. If we allow the Congress to curtail Federal court jurisdiction in any of these areas, we will set the stage for an extremely dangerous policy whereby anytime the Congress finds the Court protecting rights which we want to see abrogated, we will simply restrict their power in that particular area. . . . Equally damaging would be the erosion of the judicial branch as a check on the other branches of the Federal Government or the States. Today a majority of the Congress takes issue with the Federal Court's decisions regarding school desegregation. Tomorrow the Congress might differ with the Court on its decision upholding the Bill of Rights. The System of Checks and Balances is the cornerstone of our Government. Surely we do not want to erode it in this manner, regardless of our individual view on the effectiveness of busing.

The pending amendment goes even further than did the Helms/Johnston amendment by completely eliminating the jurisdiction of the Federal courts over voluntary school prayer cases. Only State courts could determine whether such statutes violate the first amendment. Once we embark on this course of circumventing the constitutional process for amending the Constitution by stripping the Federal courts of jurisdiction, we create a climate where the provisions contained in the Constitution are susceptible to attack any time a majority of the Congress disagrees with a decision of the Supreme Court interpreting the Constitution.

Proponents of court-stripping measures suggest that article III provides the Congress with broad discretion to establish those cases which shall be within the appellate jurisdiction of the Supreme Court and to eliminate the jurisdiction of the Federal courts over constitutional cases. Article III, section 1, states that "the judicial power of the United States, shall be vested in one Supreme Court and in such inferior Courts as the Congress may from time to time establish." Article III, section 2, grants the Congress authority to make exceptions and regulations to the appellate jurisdiction of the Supreme Court. But the Congress authority under article III is limited by other provisions contained in the Constitution. Congressional power to strip the Federal courts of jurisdiction over any case involving voluntary prayer in the public schools is limited by the supremacy clause, the first

amendment's establishment clause, and the 14th amendment's due process clause. In other words, the Helms amendment's complete elimination of Federal jurisdiction over voluntary prayer cases, when balanced against the Constitution as a whole, cannot pass constitutional muster.

First, with respect to article IV's supremacy clause, in *Ableman* v. *Booth*, 62 U.S. (21 Howard) 506 (1858), the Supreme Court made clear that without a single tribunal to determine constitutional rights and remedies, the Supremacy Clause would have no real meaning. Justice Taney stated:

> But the supremacy thus conferred on this Government (by the supremacy clause) could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and the laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States and the Government of the United States would soon become one thing in one State and another thing in another.

That is the issue which we are facing today with the amendment of my friend from North Carolina. Are we going to have 50 constitutions or are we going to have 1? Is there going to be one constitution interpreted by the courts of the land with the Supreme Court as the final interpreter, or every time the Congress does not like that interpretation are we going to remove that jurisdiction and leave it to the States?

In our Senate manual there is printed the Constitution of the United States. Are we going to have 50 Senate manuals for the 50 States, with 50 different constitutions, with the constitution meaning one thing in North Carolina and another thing in Michigan?

Are we going to rip this Constitution into 50 pieces? Or are we going to keep it intact?

That is the issue. It is not school prayer.

Many of those people voting against the pending amendment, many of our colleagues, favor voluntary school prayer, but they love the Constitution and want this Constitution to remain whole.

In other words, we are to have 1 Supreme Court, not 50. Linked with the supremacy and uniformity questions raised by this amendment is the 14th amendment's guarantees of due process and equal protection. According to a CRS report on the constitutionality of the Helms bill, S. 450, which was nearly identical to this amendment:

> If appellate review by the Supreme Court were denied in cases involving a constitutional right, and if as a consequence different interpretations of the law developed in various States or Federal judicial circuits, then the effect would be unequal treatment of persons similarly situated. That is, persons asserting the same right would be treated differently in different jursidictions. This result, it has been suggested, would be a "manifest abuse of due process, one of the bases of which is equal treatment before the law." Thus appellate review may be a necessary consequences of due process, "if such an appeal is necessary to secure uniform treatment before the law".

Clearly, Mr. President, without a supreme judicial tribunal to interpret the first amendment, disparity will occur in State courts and the people of this Nation will be subject to varying interpretations of the Constitution depending on the State where the suit is brought. This disparity is simply inconsistent with the 14th amendment, which promises Americans equal treatment under the laws. Even those constitutional scholars who have concluded that the Congress does have the power to exclude certain categories of Federal constitutional litigation from the appellate jurisdiction of the Supreme Court argue that such legislation would be unwise from a public policy perspective. For example, in his article "Congressional Power Over the Jurisdiction of the Federal Courts," Paul M. Bator, Harvard University professor of law, states:

> Even if one believes—as I do—that Congress has the raw power to do this, the argument that it would violate the spirit of the instrument to do so seems extremely powerful. I note, too, the powerful policy arguments against such a retaliatory use of the power granted to Congress by the exceptions clause: it could not long be tolerated to have the Federal Constitution be subject to different interpretations in different States on any issue of significance. Nor would it be tolerable to have the law "frozen" permanently into the shape given it by the last Supreme Court precedents rendered before the enactment of the statute withdrawing jurisdiction—precedents that would continue to be binding authority in the state courts (and that ironically, are likely to be the very precedents leading to the Congressional dissatisfaction manifested in the new jurisdictional statute).
>
> I conclude, therefore, that resort to the power to make exceptions to the appellate jurisdiction of the United States Supreme Court by making the state courts the courts of last resort in one or more important categories of constitutional litigation is a dubious expedient. The validity of such a measure would be surrounded by serious doubts.

The Doctrine of Separation of Powers would also be placed in jeopardy by the Helms amendment. Stripping the Federal courts and the Supreme Court of jurisdiction to hear certain cases where a simple majority of the Congress differs with the Court's rulings interpreting the Constitution undermines the role of the Federal judiciary as a separate but equal branch of Government and the Supreme Court as the final arbiter of the Constitution. Prof. Paul Gewirtz's March 27, 1981, remarks on proposed legislation restricting Federal court jurisdiction is noteworthy on this point. He stated:

> This is not an issue that should divide conservatives and liberals, or Democrats and Republicans. It should not divide those who support or disagree with one or another constitutional decision of the Supreme Court. This issue at stake is one of our basic constitutional structure and institutional arrangements—whether we really want to tamper so fundamentally with the basic allocation of powers in our political system. When the proposed legislation is understood in these terms, the opposition to it should grow.

Opposition to this type of legislation has grown considerably during the 97th Congress and even those who strongly disagree with the Supreme Court on specific issues have voiced foreceful objections to court-stripping bills. For example, on July 26, 1982, every Member of the Congress received a message from four former Attorneys General, four former Solicitors General, the presidents of the ABA, the National Bar Association, the Federal Bar Association, the American College of Trial Lawyers, and the American Judicature Society, along with Justice Arther J. Goldberg and Judge Shirley Hufstedler, all in agreement on the danger of bills pending before the Congress which limit the jurisdiction of the Federal courts. The letter stated:

> We hold varying views on the substantive policy issues which are subjects of these proposals, and as a group we take no position on them. But we are united in the belief that these proposals threaten our fundamental constitutional principles: the independence and supremacy in constitutional questions of the federal judiciary, the separation of powers, and the system of checks and balances. The enactment of any one of these proposals curbing the authority of the courts to hear cases or grant remedies for constitutional violations would establish an unworthy precedent.

Similarly, the report accompanying the ABA resolution opposing legislative curtailment of the jurisdiction of the Supreme Court or the inferior Federal courts stated:

> Because the policy considerations are so substantial and because the constitutional propriety of these bills is open to such serious reservations, we urge the House to adopt as the position of the Association a simple, forthright policy: to oppose the curtailment of the jurisdiction of the federal courts for the purpose of effecting constitutional change that is properly the province only of the amending process. Irrespective of the subject involved and regardless of our individual beliefs with respect to any of them, the overriding consideration is that we support the integrity and independence of the federal courts, whether we agree with particular decisions or not, and that we support the integrity and inviolability of the amending process.

Mr. President, the Conference of State Chief Justices has also strongly objected to court-stripping bills because they "give the appearance of proceeding from the premise that State court judges will not honor their oath to obey the U.S. Constitution,

nor their obligations to give full force to controlling Supreme Court precedents." Indeed, if the State court justices do give "full force" to controlling precedents, proponents of the Helms amendment will not achieve their stated purpose, which is to restore voluntary prayer in the public schools. Should this amendment become law, the Supreme Court's constitutional rulings in *Engel* v. *Vitale*, 370 U.S. 421 (1962), and in *Abingdon School District* v. *Schempp*, 374 U.S. 421 (1963), that the establishment and free exercise of religion clauses of the first amendment are violated by State-sponsored religious activities in the public schools, will stand as controlling precedent. Yet the clear implication of this amendment is that the constitutional holdings in these cases will not be followed.

We should not put 50 State courts in the position of having to determine whether State statutes permitting voluntary prayer in the schools violate the first amendment without a supreme tribunal to review their decisions. Without judicial review of State statutes the first amendment will mean something different in each of the 50 States. In the Federalist No. 22, Alexander Hamilton expressed the intent of the Framers to establish a single tribunal with the responsibility of determining what the law is when he said:

> To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicatories, all nations have found it necessary to establish one court paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last resort a uniform rule of civil justice.

And Justice Holmes expressed the view of the Court with respect to its role as the final arbiter of the meaning of the Constitution when he said:

> I do not think the United States would come to an end if we (the Supreme Court) lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that determination as to the laws of the several states.

Mr. President, I urge my colleagues to vote against the Helms amendment. Regardless of the individual views we hold with respect to prayer in the public schools, we share a common duty to uphold the Constitution. We should together defeat this amendment for the violence it does to our basic document.

Mr. President, I ask unanimous consent that I may yield the floor to the Senator from Connecticut without this being considered the end of the speech for the purposes of the two-speech rule.

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

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from North Carolina (Mr. HELMS) for the purpose of debate only, without losing my right to the floor, without this being considered as the end of a speech for the purposes of the two-speech rule, and that I be re-recognized at the conclusion of his remarks.

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

Mr. HELMS. Mr. President, I do have the floor in my own right, is that correct, for 15 minutes?

Mr. WEICKER. Mr. President, I relinquished the floor for the purpose of debate only.

The PRESIDING OFFICER. Does the Senator from Connecticut wish to yield to the Senator from North Carolina?

Mr. WEICKER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, with the understanding that when I finish my statement, the Senator from Connecticut (Mr. WEICKER) may again have recognition for the floor.

The PRESIDING OFFICER (Mr. JEPSEN). The Chair respectfully advises the Senator that he cannot make a qualified request for terminating quorum calls. He may only ask that the call be rescinded.

Mr. PACKWOOD. Will the Chair say that again?

The PRESIDING OFFICER. The Senator may not make a request to rescind a quorum call with a qualification. The Senator may only request that the call be lifted.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescined.

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

Under the previous order, the Senator from Connecticut is recognized.

Mr. PACKWOOD. Will the Senator from Connecticut yield to me?

Mr. WEICKER. I yield to the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I wish to read to my colleagues the following statement:

> The governmental structure, established by the Constitution, is one of separation of powers, a system which has survived the test of history. Since *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 177 (1803), it has been recognized that "It is emphatically the province and duty of the judicial department to say what the law is."
>
> The power of the Supreme Court to say what the law is, is perhaps most important with respect to the Bill of Rights, Constitutional provisions which are especially cherished by minority communities. The right of those who at that moment find themselves to be in a minority would be fragile indeed were they subject to modification or elimination at the will of a disgruntled majority.
>
> We as a nation have, with good reason, adopted a compact to order our political affairs which limits the authority of political majorities in certain respects. The most important of these self-imposed limitations is the protection afforded individual rights—both personal rights and property rights—by the Constitution and the concomitant commitment to the Supreme Court of the power to interpret the Constitution.
>
> The legislative proposals now pending which would oust the Supreme Court of jurisdiction to hear particular classes of constitutional claims strike at the very heart of that system. A more radical restructuring of our constitutional plan is difficult to envision, and a more pernicious one, hard to imagine.
>
> That statement was signed by:
>
> Norman Redlick, Dean, New York Univesity Law School; Albert J. Rosenthal, Dean, Columbia University School of Law; Terrence Sandalow, Dean, University of Michigan Law School; Jesse Choper, Dean, University of California at Berkeley; Gerhard Casper, Dean, University of Chicago Law School; Harry H. Whellington, Dean, Yale Law School; John Hart Ely, Dean, Stanford University Law School; and James Vorenberg, Dean, Harvard Law School.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HELMS. Mr. President, I ask if the Senator from Connecticut is willing to yield to me for a few minutes?

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, I am endeavoring to find a means to be helpful to the leadership of the Senate in bringing this matter to a conclusion of some sort—the matter, of course, being the Helms prayer amendment. Let me say for the record that I have refrained from consuming the Senate's time during the several weeks that this measure has been before the Senate and in contemplation by the Senate.

Let me say also that I have the highest respect for and belief in rule XXII.

I do not want the so-called filibuster right to be watered down and I certainly do not want it to be eliminated. As has been demonstrated during the debate on the abortion issue and the school prayer issue, the filibuster cuts both ways. On one occasion I may be using it. On this occasion the distinguished Senator from Connecticut

(Mr. WEICKER), the distinguished Senator from New York (Mr. MOYNIHAN), the distinguished Senator from Oregon (Mr. PACKWOOD), and others have found it necessary to block the will of the majority of Senators.

I say to you, Mr. President, that that is a very precious right in terms of the traditions of the Senate, and I have no fault to find with it because next week I may be using it.

From time to time, I have been tempted to rise in a forensic challenge to some of my colleagues when they have said over and over again that this is a court-stripping bill.

It is no such thing. With all due respect to my dear colleagues, I believe they know that it is not a court-stripping bill. They know that it is a clear and fundamental right of Congress under article III, sections 1 and 2.

I have been tempted more than once to engage in oratory about the contradictions in the Senators' positions from one issue to another. I have alluded briefly a time or two to the so-called Voting Rights Act extension debate that occurred on this floor a few weeks ago in which every one of the Senators opposing my prayer amendment voted for cloture, demanded that the Senate be allowed to work its will, but they did something else, Mr. President. They engaged in a very clear act of court stripping.

Now, the distinguished and able Senator from Massachusetts arose the other day, with his voice lofted to the ceiling, and denied that this is the case, but I think he knows better than that.

I do not want to move the Senate into an atmosphere of hostility, but what that act did was, first, to reverse outright the Mobile case on the issue of intentional discrimination and, second, to strip all Federal district courts, except the District Court for the District of Columbia, of their jurisdiction to review section 5 voting rights cases. So if you want a good example of court stripping, it was the Voting Rights Act extension, which many of my friends on the other side supported enthusiastically. Now they come to prayer and they say, "Oh, you will bring down the pillars of justice. You must not do this," when there are distinguished constitutional scholars, authorities all around this country who are constantly calling me and writing to me, saying, "Senator HELMS, you are right."

I recognize that the New York Times does not agree with me, but the New York Times never does. The Washington Post does not agree with me, but the Washington Post never does. As a matter of fact, if those two newspapers start agreeing with me, I am going to check my position and see what is wrong with it.

As I said to some of the television people yesterday, who had urged me to come up and visit with them, "Sometimes I feel like there have been two sessions of the Senate, the one in which I participated and the one on which you reported."

Now, I do not ask any news media to be my chamber of commerce or to defend me. All I ask is that they be objective and be fair to the issue. What happens to JESSE HELMS is not important, but what happens to objectivity in journalism is important. I say that as a Senator who has spent most of his life in the news business.

So I hope that somewhere along the line the American people will understand that Senate consideration of economic issues has not been delayed by those of us who favor the restoration of voluntary school prayer. The consideration of economic issues has been delayed by opponents of school prayer.

But I say again that those Senators are properly exercising their rights under the rules of the Senate, and I do not fault them. But I do think that the point should be made that it is not those who favor school prayer who have held up the Senate. We have a majority of the votes clearly.

I said at the outset that I hoped to be able to help the leadership move this matter along. It is my purpose, when and if I can get the floor for the purpose of offering a motion to recommit the bill with instructions.

Mr. President, just so it will be in the RECORD, let me read the motion to recommit that I have drafted. The leadership is now considering if and how this should be done, but I want to emphasize that I am doing this so that we can hopefully reach some accommodation and some conclusion. The motion reads:

> Mr. President, I move that H.J. Res. 520 be committed to the Committee on Finance with instructions, to wit: that the Committee forthwith report the bill back to the Senate for consideration with a new Committee substitute which contains the pending Committee substitute, as already amended by the Senate, together with the pending Helms Amendment on School Prayer as an integral part thereof; provided, further, that said new substitute shall contain no other material except as specified herein.

Several things could happen to that motion. A motion to table could occur, the motion is amendable in two degrees, or it could be filibustered. But I want to show my good faith, Mr. President, in offering a motion to recommit, because I know that the leadership of the Senate has its difficulty with scheduling; and I simply want to move along the work of the Senate as best I can.

If the Chair will bear with me, perhaps I will be in a position to make the motion.

I yield to the able majority leader.

Mr. BAKER. Mr. President, I ask unanimous consent that I may be recognized now without disturbing the status quo, whatever the Chair determines that to be.

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

Mr. BAKER. Mr. President, the distinguished Senator from North Carolina has advised the Senate and the principals involved in this debate of his intention to file a motion to recommit with instructions, as he just delineated that motion, when he gains recognition.

It would be my hope that at this point we could enter into a unanimous-consent agreement that would facilitate the purposes of the Senator from North Carolina and the purposes of those who oppose him, as follows:

Mr. President, I ask unanimous consent that the Senator from North Carolina may now be recognized for the purpose of offering a recommittal motion as he has described it and with the terms he has just described.

I observe that at 12 o'clock noon, a vote on cloture will occur, according to the previous order. I ask unanimous consent that after that vote, the majority leader or his designee will be recognized for the purpose of making a tabling motion against the motion to recommit which is to be offered by the Senator from North Carolina.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask, first, whether the request already has been agreed to that there be a vote at 12 noon.

Mr. BAKER. Yes; that has been agreed to.

Mr. ROBERT C. BYRD. If I understand the request, none of the request needs to be acceded to. The Senator has a right to move to recommit at any time.

Mr. HELMS. If I have the floor.

Mr. ROBERT C. BYRD. He had the floor when he yielded.

Mr. HELMS. That was by accommodation.

Mr. ROBERT C. BYRD. That is different. I have no objection.

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

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

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I think I know what will happen. But, in an effort to further expedite the procedures in the Senate, I see no point in another cloture vote.

The Senator from Arkansas was correct yesterday in that we had the remarkable occurrence of 2 or 3 consecutive rollcall votes with 100 Senators present. Clearly, the majority of Senators favor my amendment; but, clearly, we do not have enough votes to impose cloture. So, it is the gridlock that the leadership of the Senate is confront-

ing that prompted me to try to be accommodating.

Mr. President, I ask unanimous consent that the cloture vote scheduled for 12 o'clock be vitiated.

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. Mr. President, I will say that the vote will be irrelevant, in light of the motion which I send to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The motion will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) moves that H.J. Res. 520 be committed to the Committee on Finance with instructions, to wit: that the Committee forthwith report the bill back to the Senate for consideration with a new Committee substitute which contains the pending Committee substitute, as already amended by the Senate, together with the pending Helms Amendment on School Prayer as an integral part thereof; provided, further, that said new substitute shall contain no other material except as specified herein.

Mr. HELMS. I thank the Chair, and I thank the clerk.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Under the circumstances, there is a sufficient second.

Mr. President, I thank my friend from Connecticut, Mr. WEICKER, and my friend from Montana, Mr. BAUCUS, and the distinguished leadership, Senator BAKER and Senator ROBERT C. BYRD, for their patience not only with me but also with other Senators. We will see how it comes out.

I thank the Senator for yielding to me.

Mr. WEICKER. Mr. President, I thank my distinguished colleague from North Carolina.

I want to say here that nobody fights harder than he for his point of view and I for mine. But I think the Senator from North Carolina knows—and I can speak for myself—that what the public does not see is that when we go through these doors here, that is when the fighting ends and our personal friendships take over.

We have been at it, on a variety of issues, close to 15 months now, and—I can speak for myself—there has not been one cross word between the Senator and me off this floor or on any other occasion, other than our fighting for our points of view. I very much respect him, and I suspect that there are going to be many fights in the future. But that is what makes it worth getting up in the morning, JESSE. Otherwise, you and I would have nothing to look forward to. It would be a very dull world.

Mr. HELMS. I thank the Senator.

Mr. WEICKER. Mr. President, I should like to yield the floor to the distinguished Senator from Montana (Mr. BAUCUS) for the purpose of debate, without losing my right to the floor and without this being considered the end of the speech for the purpose of the two-speech rule, and I ask that I be rerecognized at the conclusion of the Senator's remarks.

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

The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator from Connecticut for this noble and strong efforts to protect the Constitution of the United States.

I also thank the Senator from North Carolina for the many accommodating ways in which he has dealt with this debate. The Senator from North Carolina could have been much more strict and could have used the Senate rules to his advantage in many ways but chose not to do so. He has allowed this debate to go on in an orderly and decent way, and I thank the Senator from North Carolina for the gentlemanly way he has conducted this debate.

Mr. HELMS. I thank the Senator.

Mr. BAUCUS. Mr. President, at noon we will again consider a cloture vote. The issue there is the underlying court-stripping amendment offered by the Senator from North Carolina.

Over the last several weeks, many distinguished Members of this body have stood on the Senate floor and addressed the real issue before us. The Senator from Connecticut in particular has shown great courage in repeatedly focusing this body's attention on what is truly at stake.

However, I should like to bring special attention to the actions and comments of the senior Senator from Arizona who I believe has particularly distinguished himself by raising the most basic of constitutional concerns. Not yesterday, nor last week, nor the week before, but 6 months ago, the distinguished senior Senator from Arizona addressed the issue of court stripping as clearly and as persuasively as any Member of this body during the current debate. On March 17, 1982, Senator BARRY GOLDWATER spoke out against court stripping as follows:

I am strongly opposed to the breakup of neighborhood schools. I think the unborn baby is entitled to some legal protection. And I believe school children should be allowed a few moments of voluntary prayer. In my view, the Supreme Court has erred. But we should not meed judicial excesses with legislative excesses * * *.

What particularly troubles me about trying to override constitutional decisions of the Supreme Court by a simple bill is that I see no limit to the practice. There is no clear and coherent standard to define why we shall control the Court in one area but not another. The only criteria seems to be that whenever a momentary majority can be brought together in disagreement with a judicial action, it is fitting to control the federal courts * * *.

Whether or not Congress possesses the power of curbing judicial authority, we should not invoke it. As sure as the sun will rise over the Arizona desert, the precedent will return to oppress those who would weaken the courts. If there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world would amount to nothing.

In fact, Mr. President, little more needs to be said. Unfortunately, the momentary majorities that Senator GOLDWATER speaks of have continued to push their particular social agenda in the context of court stripping. As a result, we have been tied up here in the Senate for weeks trying to explain to our fellow Senators, our fellow Americans, and the press that what is at stake is not that social agenda, but rather the Constitution and the independence of our judicial branch of government.

But, Mr. President, I am hopeful. I am hopeful because of the showing we have had here on the Senate floor. I am hopeful because of the number of Senators who have taken the courageous step of coming here and speaking out on the real issue before us. I am hopeful because of the courageous votes Senators have been willing to cast these last several weeks.

Finally, I am hopeful because this Nation has previously faced and withstood similar challenges to the independence of the Federal judiciary. One such challenge occurred in 1937 when President Roosevelt proposed to increase the size of the Supreme Court. He felt that a series of Supreme Court decisions threatened the success of his national recovery program. By proposing to alter the Court's composition, he hoped to force the Court to uphold the constitutionality of his economic plan. The people and Congress resoundingly defeated the Roosevelt plan. The Court packing plan was seen for what it was—a significant threat to the independence of the judicial branch.

As we decide whether or not to vote for cloture and decide how to vote on the pending motion to recommit, as well as the probable tabling motion on the motion to recommit, I think it is important to keep in mind the wise words of others who have successfully defended the Supreme Court, particularly in earlier years—namely, 1937.

At that time, Burton K. Wheeler, a Senator from Montana, delivered the warning to the U.S. Senate which is a warning that every Member of this body should continue to heed today. At that time, Senator Wheeler stated as follows:

So I say it is morally wrong to do by indirection what cannot be done by direction. It is morally wrong to change the Constitution by coercive interpretation. . . . Of course, Mr. President, there have been abuses in the court. I have been one who has disagreed with them, and I expect to disagree with them again, but I am unwilling on the

basis of some specious argument or some subterfuge that defies the spirit of the Constitution to participate in setting one of the most dangerous precedents that has ever been conceived by this Congress or any other.

Those are the words, Mr. President, of Senator Burton K. Wheeler when the President at that time tried to pack the Supreme Court. Senator Wheeler saw that for what it was, a way to end-run the Constitution of the United States, and Senator Wheeler pointed out it would be wrong, it would be morally wrong to undermine our form of Government, to so undermine the Constitution.

Mr. President, let us not give away the Constitution on the altar of political appeasement. Let us not cast politically popular votes that run counter to our duty and to our oaths of office to uphold the Constitution of the United States.

These court-stripping bills are wrong. The great majority of the Members of this body know they are wrong.

These court-stripping bills are more dangerous to our form of government than any of the abuses they are intended to address.

The lesson we hopefully have learned from this debate is that there is a proper and constitutional way to address decisions of the Supreme Court with which we disagree.

Let this debate be a signal to all, for decades to come, that they cannot end-run the Constitution. Let it be a signal that they cannot respond to the Supreme Court by trying to undo the Supreme Court. Let this debate be a signal to those who still believe that such shortcuts are politically acceptable—let them understand, if they continue to offer such proposals, that there will always be men and women of conviction who will stand up and fight them.

There is a need for the country to address controversial social issues, a definite need, a great need. Fortunately, the Founding Fathers constructed a constitutional-amendment process which has served this Nation well throughout its history to meet those needs. Let the social-issue debate take place in that context.

I reiterate my commitment to support the bringing of those constitutional amendments to the floor of this great body.

But, Mr. President, I will continue with all the strength that I can summon to fight attempts to remove from the Supreme Court its duty and its right to enforce the Constitution and to protect constitutional rights.

We who are fully appreciative of the threat that these bills represent have an obligation to keep fighting them with every tool that we have at our disposal, and we will continue to do so.

Mr. President, this debate has continued now for over a month. It really began on August 18. For over a month we have been ostensibly debating the debt limit bill, a bill that must pass. Our country must pay its bills if it is to meet its financial obligations. But pending to that debt limit bill has been two amendments. They have been cast as an abortion amendment and also a school prayer amendment.

Mr. President, those amendments are not as they are cast, not as they are phrased to be. Rather they are court-stripping amendments.

What do I mean? I mean that those are amendments, particularly the school prayer amendment which prohibits the U.S. Supreme Court from hearing any claim evolving around school prayer. That amendment is a court-stripping amendment because it strips the Supreme Court of the right to hear anyone in America, any citizen in America from claiming that his or her constitutional right under the first amendment is abridged. That is what it is. It is a court-stripping amendment.

So far, Mr. President, our country has not seen fit to adopt court-stripping amendments, and that is very simply because to adopt court-stripping amendments is to undermine, to obliterate one of our three coequal branches of Government, the Federal judiciary.

Our Founding Fathers were wise, they were very wise, in creating the Constitution with three coequal separate branches of Government, executive, legislative, and the judiciary.

Our Founding Fathers wrote in checks and balances, a lesson we all learned in our civics classes when we were in high school, checks and balances so that no one branch of Government, the executive, the legislative, or the judiciary, would be so powerful as to swallow up one or both of the other branches of Government. It is a checks and balances system.

Mr. President, to keep the judiciary as a coequal branch of Government we cannot in this body deprive the Supreme Court of hearing constitutional claims and issues for if we were to do so we would tell the country that we no longer want a Supreme Court to protect Americans' constitutional rights, first amendment rights, other rights that are written in the Constitution. I do not think that is what our American public wants this body to do.

Mr. President, I ask unanimous consent that I may yield the floor to the distinguished Senator from Connecticut (Mr. WEICKER) for the purpose of debate only and without losing my right to the floor.

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

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I ask unanimous consent that I may yield further to the distinguished Senator from North Carolina (Mr. EAST) for the purpose of debate and without losing my right to the floor.

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

The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I wish to thank the Senator from Connecticut who has been, I wish to underscore, exceedingly gracious and accommodating throughout this debate for all points of view, including those that disagree with him. I think the record should reflect that.

The hour is drawing nigh. I did have an opportunity yesterday to speak at some length on the general substance of our concern here, and I will mercifully spare my colleagues repeating that.

There are two points that in the brief minute or two I have remaining I wish to underscore in keeping with points already made by my distinguished senior colleague from North Carolina, Senator HELMS.

There has been, I think he raises a legitimate point, a tendency for the keepers of the Nation's conscience to portray the idea that some way or other those supporting his position are the obstructionists. He has pointed out that what has held us up is the filibuster, and Senator WEICKER and the other Senators certainly have every right to exercise that privilege under the rules of the Senate.

I am simply suggesting, Mr. President, that if someone is to be charged with obstructionism it certainly is not the senior Senator from North Carolina. He has received a majority support on the vote on the prayer issue. If you must say someone is obstructing it is those who are filibustering who are doing the obstructing. And to the keepers of the Nation's conscience I would simply suggest that if the situation were reversed I can imagine the great wailing and gnashing of teeth about the obstructionist tendencies of the distinguished senior Senator from North Carolina.

I sense a lack of equity, balance, and fairness in that presentation to the public and the potential public perception thereof.

Finally, the word "stripping" of the Court's jurisdiction has been used here rather cavalierly. It is an emotion-laden term. But I reiterate what my distinguished senior colleague from North Carolina has pointed out: Every one of those on the other side of the debate in the Voting Rights Act did vote to take away the jurisdiction of every lower Federal court in the United States except the one in the District of Columbia to hear cases under section 5 of the Voting Rights Act. The point is that under article 3 of the Constitution we have that power to set the appellate jurisdiction

of the U.S. Supreme Court and the entire jurisdiction of the lower Federal courts.

Our distinguished colleagues in opposition did that in the Voting Rights Act, and it has been going on since the founding of the country. There is nothing novel about it.

So they are somewhat disingenuous when the implication is that Senator HELMS has come up with an extraordinary and revolutionary idea. It is simply not so.

The position he takes is consistent with the Constitution and it is consistent with past practices in the U.S. Congress.

So I would ask my distinguished colleagues to not be frightened off by the so-called stripping concept. It is a red herring issue.

Again, Mr. President, I have utilized my time and the hour grows upon us.

I wish to thank again the distinguished Senator from Connecticut for the opportunity to speak on this 2 days in a row, and to commend him again for the gracious way in which he has handled the entire matter.

I yield back to the Senator from Connecticut.

Mr. BRADY. Mr. President, I would like to clarify briefly my position on the issue of voluntary prayer in public schools. I support the idea of prayer in schools but I have some concerns with this particular amendment offered by the Senator from North Carolina. I believe we need legislation to encourage school prayer, but only prayer that is truly voluntary instituted without compromising the right of the Supreme Court to interpret the Constitution.

This amendment denies the Supreme Court and lower Federal courts jurisdiction over cases involving voluntary school prayer. By statutorily overturning the decisions of the courts and denying them their independent role in our Government, this legislation sets a dangerous precedent that could be applied to other issues. The question of prayer in public schools has a long history in constitutional law, one with which I do not claim to be intimately familiar. But I think this amendment threatens the separation of powers, and thereby jeopardizes our time-tested system of government.

While establishing the separation of powers, the Constitution also states specifically in the first amendment that, "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof." I am concerned that this legislation could restrict freedom of worship by religious minorities.

However, I am in favor of providing an opportunity for voluntary prayer in school, as long as it is truly voluntary. Particularly, I can find no reasonable objection to schools providing students with a moment of silence during their school day to pray, to meditate, or simply to sit quietly, if that is what they wish to do. I would strongly support any legislation to this effect.

A time for silent meditation would assure that public worship remain at the same time the voluntary and private matter that the Founding Fathers intended it to be.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 12 noon having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment number 2031, as modified, to the committee substitute to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

Jesse Helms, John P. East, Roger W. Jepsen, Jeremiah Denton, Paul Laxalt, Paula Hawkins, Orrin G. Hatch, Bob Kasten, Harry F. Byrd, Jr., Steven D. Symms, S. I. Hayakawa, Don Nickles, Strom Thurmond, Charles E. Grassley, Jake Garn, Malcolm Wallop, and Howard H. Baker, Jr.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The question is, Is it the sense of the Senate that debate on the Helms amendment No. 2031, as modified, shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Georgia (Mr. NUNN) are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 53, nays 45, as follows:

[Rollcall Vote No. 349 Leg.]

YEAS—53

Abdnor	Garn	Nickles
Armstrong	Grassley	Pell
Baker	Hatch	Pressler
Bentsen	Hawkins	Proxmire
Boren	Heflin	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Huddleston	Roth
Cannon	Humphrey	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
D'Amato	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky

NAYS—45

Andrews	Brady	Cohen
Baucus	Bumpers	Cranston
Biden	Burdick	Danforth
Boschwitz	Byrd, Robert C.	Dixon
Bradley	Chafee	Durenberger
Eagleton	Jackson	Packwood
Glenn	Kennedy	Percy
Goldwater	Leahy	Pryor
Gorton	Levin	Riegle
Hart	Mathias	Rudman
Hatfield	Matsunaga	Sarbanes
Hayakawa	Melcher	Specter
Heinz	Metzenbaum	Stafford
Hollings	Mitchell	Tsongas
Inouye	Moynihan	Weicker

NOT VOTING—2

Dodd Nunn

The PRESIDING OFFICER. On this vote the yeas are 53 and the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, in a moment, under the previous order, I am going to designate the Senator from Arizona to make a motion. The motion that I anticipate will be made will be a motion to table the Helms motion to recommit with instructions.

Mr. President, I designate the Senator from Arizona.

The PRESIDING OFFICER. Pursuant to the previous order, the Chair recognizes the designee of the majority leader, the Senator from Arizona, for a motion.

Mr. GOLDWATER. Mr. President, I move to table Senator HELM's motion to recommit this bill.

Mr. BAKER. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WEICKER. Mr. President, parliamentary inquiry. What is the motion before the Senate?

The PRESIDING OFFICER. The motion is to recommit——

Mr. BAKER. Mr. President, the Senator moved to table the motion to recommit.

Mr. RANDOLPH. Mr. President, I insist, Mr. President, on order in the Senate. Members should certainly cooperate with the majority leader.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Arizona has moved to table the motion to recommit.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the motion to table the motion to recommit.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I know what I am doing is not popular, but this Senate is not doing what it should do. That is to discipline itself. I

ask the Chair to rule so that the Senate will come to order.

The PRESIDING OFFICER. The Senate will be in order. Senators will return to their desks. Senators will please clear the well.

The assistant legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will please be in order. Will Senators please return to their desks or to the cloakrooms.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—51

Andrews	Glenn	Melcher
Baker	Goldwater	Metzenbaum
Baucus	Gorton	Mitchell
Biden	Hart	Moynihan
Boschwitz	Hatfield	Packwood
Bradley	Hayakawa	Pell
Brady	Heinz	Percy
Bumpers	Hollings	Pryor
Burdick	Humphrey	Quayle
Chafee	Inouye	Riegle
Chiles	Jackson	Rudman
Cohen	Kassebaum	Sarbanes
Cranston	Kennedy	Specter
Danforth	Leahy	Stafford
Dixon	Levin	Tower
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Weicker

NAYS—48

Abdnor	Garn	Nunn
Armstrong	Grassley	Pressler
Bentsen	Hatch	Proxmire
Boren	Hawkins	Randolph
Byrd, Harry F., Jr.	Heflin	Roth
Byrd, Robert C.	Helms	Sasser
Cannon	Huddleston	Schmitt
Cochran	Jepsen	Simpson
D'Amato	Johnston	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Wallop
East	Mattingly	Warner
Exon	McClure	Zorinsky
Ford	Murkowski	
	Nickles	

NOT VOTING—1

Dodd

So the motion to lay on the table the motion to recommit was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to, Mr. President.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, if I may have the Senate's attention, the Baucus amendment once again is the pending question. Senators should be on notice that there will be a motion to recommit sometime early this afternoon. I shall not make it for the time being. I believe there are a number of Senators who are committed to marking up sessions of committees and other important business, and we have pretty much disrupted their morning already.

At the moment, I am going to put us in morning business until 1:30 p.m. I also want to say that I voted to table this motion, notwithstanding that I support the Senator from North Carolina and his amendment, because, at some point, this has to end. This is that point.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 1:30 p.m., in which Senators may speak for not more than 10 minutes each.

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

The galleries will please be quiet.

The Senator from Wisconsin.

THE GENOCIDE CONVENTION IN HISTORICAL PERSPECTIVE

Mr. PROXMIRE. Mr. President, so often we focus on the here and now in politics. But today I want to consider the Genocide Convention from a historical perspective.

Let us remember, Mr. President, that our country was founded by small groups of people who were persecuted for their religious beliefs. So they left their native country, sailed across an ocean, and settled in a new land. They formed a society which stressed respect for the individual in the group, and for the minority group within society. Tolerance for individual differences was built into the charters of our earliest colonies. Guarantees of human rights and freedoms were part of our earliest laws.

When these colonies became an independent nation, these guarantees of human freedoms—such as freedom of speech and religion—were immediately made part of our Constitution.

Over the next 150 years, Mr. President, this country expanded tremendously, in geographic, economic, and political terms. But, throughout this growth, America remained true to her original humanitarian ideals. These ideals were put into practice when this Nation welcomed thousands of immigrants to its shores. These immigrants were often victims of oppression or persecution in their home countries, and sought a land of freedom, tolerance, and opportunity. America became known for her bigness—not only of size, but of heart and spirit.

We truly became the leading political and economic power on Earth during the period when we fought the war against totalitarianism and the perpetrators of the worst genocide in human history. After a huge investment of human lives, labor, and misery, we were triumphant. After the war, following in our long tradition of tolerance for all groups of people and horrified by what we say in Europe, we helped draft a treaty making genocide a crime under international law. This treaty was a reaffirmation of everything this country stood for, and fought for: human rights, human dignity, and the right of different groups to live without fear of mass extermination.

In the postwar period, we made further advances in human rights, both at home and abroad. At home, we passed laws making racial segregation and discrimination illegal. Internationally, we became the acknowledged leader in human rights issues.

Given this long tradition of tolerance, Mr. President, it seems inconceivable that this country would hesitate—or refuse—to ratify the treaty making genocide a crime under international law. Nothing in our history or character or constitutional ideals suggests that we would balk at ratifying such a treaty.

I tell you, Mr. President, that we present day Americans have a responsibility to uphold the ideals our ancestors lived and died for. That we have not yet ratified the Genocide Convention is shameful, a riptide in the current of our history. I call upon the Senate to ratify the Genocide Convention.

SOVIET-AMERICAN JOINT CONSULTATION CENTER

Mr. PROXMIRE. Mr. President, on September 3, an article appeared in the Wall Street Journal. The author of this article is the senior Senator from Washington (Mr. JACKSON).

Senator JACKSON has constructed a convincing case for the Soviet-American Joint Consultation Center—an improvement on the now out-of-date "hotline" system. This center would enable our leaders to have fast and reliable communication with their counterparts in Moscow—a capability that is a prerequisite for peace.

As Senators, we are often faced with decisions about nuclear weapons and the gruesome possibility of their use in our lifetime. It is for this reason that I find Senator JACKSON's article so compelling. If the foundations of peace that we have established are to stand against the winds of war, we must never allow the line of communication with the Kremlin to be severed. We have nothing to lose and quite literally everything to gain from this system.

I fully endorse the Soviet-American Joint Consultation Center and encour-

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age my fellow Senators to do so as well. If humanity must face Armageddon, let it be for principles, not communicational foulups, and let the door for further negotiation always stay open. There is too much at risk and too little required for war.

I ask unanimous consent that Senator JACKSON's article be printed in the RECORD.

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

[From the Wall Street Journal, Sept. 3, 1982]

NUCLEAR WAR AND THE HOTLINE

(By HENRY M. JACKSON)

In spite of all the attention being focused on nuclear arms freezes and reductions, one critical problem is being neglected: how to create better political and institutional safeguards against the outbreak of a nuclear war that neither side wanted or planned. Major and mutual arms cuts, vitally needed though they are, won't by themselves assure peace. We require also new institutional mechanisms for preventing accidents and the kinds of misjudgments and blunders that could lead to a holocaust.

That is why I have been urging that our government put a high priority on establishing with the Soviets a permanent Soviet-American Joint Consultation Center—a new institution for facilitating immediate information exchanges and consultations between the two countries when events occur that could trigger a nuclear war not intended or desired by either side.

The two superpowers have thousands of nuclear-tipped missiles poised for launching. More and more other countries have or soon could have at least some nuclear-weapon capability. Terrorist groups are steadily increasing in sophistication and numbers. In this environment, there is a growing danger of incidents that could spark a nuclear conflict unless they are immediately and properly assessed, and quickly controlled. These could range from technological failings to miscalculations or misunderstandings reflecting human error.

HOTLINE HAS SHORTCOMINGS

The only instrument currently available for direct consultation between the top leaders of the superpowers is the 20-year-old Washington-Moscow hotline. Valuable as it is, this line has major shortcomings. It is only a teleprinter system—whose use requires composing, encrypting, transmitting, decrypting, translating and then digesting written messages. The president was correct when he recently proposed that consideration be given to upgrading the hotline to permit voice communication.

But there are many crises for which not even a modernized hotline would be adequate. An example is how to keep matters from getting out of hand if a nuclear war-threatening event occurs when the heads of state are out of quick and effective touch both with each other and with their key diplomatic and military advisers. An incident demanding immediate explanation and decision could easily take place when the president was in California, the secretary of state in Bangkok, and the secretary of defense in Brussels. At the same time, the chairman of the Politburo might be in Yalta while his foreign minister was in New Delhi and his minister of defense in Bucharest.

The jointly staffed and operated Soviet-American consultation center would be in operation every hour of every day.

Whenever incidents took place that could lead to nuclear war, the center would be alerted at the same time that the heads of state were moving to get in touch with each other through the hotline. After exchanges of information and consultations between the two center staffs, the American side would report to the White House its assessment, while its Soviet counterparts would be doing the same for the Kremlin.

Although the two staffs should certainly include technical advisers and appropriate military representatives, it would be a mistake to view the center's basic mission as either technical or military. The showdown questions of nuclear war or peace are and always will be political and diplomatic, and the center's staffing should reflect this fact. The American staff might well be headed by a senior diplomat with long and broad exposure to Soviet affairs. The stature of the heads of the two teams would need to be such that each had direct and immediate access to the highest levels of their respective governments.

The center would be at a mutually agreeable place. I envisage it as consisting of a jointly operated central building providing working space and conference rooms for both staffs, and adjacent nationally controlled buildings, one run by the Soviets and one by us. These would give the staffs of each side a chance to confer privately and enable them to be linked to their respective capitals by ultra-secure, unilaterally controlled communications.

Such a center would represent a major advance. When using the hot-line, the two sides must communicate across the 5,000 miles which separate our two capitals, and they consult only in times of emergency. At a joint center, our two countries' representatives would talk face-to-face. Furthermore, they would be working with each other on a daily basis in times of relative calm as well as crisis. Each side's staff members would be able to form judgments concerning the credibility of their opposite numbers and the two staffs would become known quantities to each other. This would make for vital gains in understanding in times of emergency.

Once the work of the center won the confidence of the two governments, it could be of great help in preventing crises as well as resolving them. The center, for example, could be used as a mechanism for conveying advance notice and explanations of changes in force deployments or readiness levels of large-scale exercises that could be misinterpreted as possible signs of an impending nuclear assault.

Certain dangers would have to be guarded against. For one, we would obviously have to protect the essential aspects of American defense and intelligence-gathering capabilities. The center should rely exclusively upon each side's input from its own data-accumulation systems and should have no information-collecting capability of its own. It would also be essential that the Soviets agree to refrain from using the center as a vehicle for propaganda or polemics and that we respond quickly and sternly to any transgressions on this score. To be effective, the center would have to work without publicity.

WOULD ASSIST ARMS TALKS

The early creation of such a center would give an assist to the current strategic arms reduction talks in Geneva. We are morally and politically obligated to negotiate with the Soviets in good faith, and to keep talking with them as long as they are willing to talk. But if the past is any guide, the time and effort that will almost certainly be needed to reach a peace-serving agreement will surely test our country's patience and perseverance.

Despite the big gap between existing Soviet and American positions on strategic arms cuts, there is at least one matter on which we should now be able to see eye-to-eye—the importance of doing everything possible to prevent a nuclear war by accident or misunderstanding.

An accord to go forward with the center would make a twin contribution to the cause of peace. The existence of the center could do much to make nuclear war by mistake less probable. And the negotiating success marked by the center's establishment could fortify our resolve to persevere in the Geneva talks as long as necessary to achieve arms reductions of the dimensions and nature needed for a world that yearns for peace.

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

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

VOTING IN THE UNITED STATES

Mr. RANDOLPH. Mr. President, within the week the citizens of Sweden have been given the opportunity to vote in a national election in that country. Approximately 91 percent of those eligible to vote were at the polls.

We recognize, of course, that Sweden is rather compact, certainly a smaller entity as a nation than the United States of America, but throughout the world today we are seeing the citizens of country after country who have the right to vote going into the polling booths and casting their ballots for or against individuals and issues.

Mr. President, I have a reluctance but even with that reluctance I stand once more at my desk, as I have in the past on dozens and dozens of occasions, not to sound an alarm or even to express a warning but to speak upon the record and nothing else.

I have reminded the Senate—and I respect the judgment of my colleagues—of what is happening in this Republic.

In 1960, when John Kennedy was elected President, 63 out of every 100 eligible voters cast their ballots. Twenty years later, in 1980, when President Reagan was chosen by the people of this country, the vote was not 63 out of every 100, it was 53 out of every 100. Many, many States in this Republic were voting less than 50 percent of the men and women, including the young people who have failed to vote under the 26th amendment which gives 18- 19- and 20-year-olds not only the opportunity but the responsibility to use the ballot.

Now I come to recent weeks in this country. I have checked the primaries across America, important primaries, with rather close contests in Senate seats, House seats, and governorships, and we have been voting in these last few days and weeks in these crucial contests within the States approximately 25 percent of those who are eligible to vote in this Republic.

And so again I stand and say to my colleagues, if you contact your constituencies, please, say to the heads of families: "Talk over the responsibility of citizenship in your own home; that is, if you ever gather around the family table, talk to your children of voting age about their responsibility." I hope we can do something to stop this trend.

I only express my strong desire that in just a little over 5 or 6 weeks from now, when we shall have another election, one-third of the Members of this body standing for election, all the House Members, and throughout the States, the governorships and other offices, somehow or other we will not have what we have continued to have. That is a tragic situation from the standpoint of the framers of the Declaration of Independence, the framers of the Constitution of the United States; that somehow even at that late hour we come back to the words of the President of the United States, our first, George Washington, who said, "Citizens by birth or choice, that country has the right to concentrate your fullest commitment."

Mr. President, quietly but earnestly I say Washington was right.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

MARIHUANA CULTIVATION IN THE UNITED STATES

Mr. HAYAKAWA. Madam President, I would like to insert several articles into the RECORD which will provide my colleagues with an understanding of the realities of marihuana cultivation in the United States today.

The U.S. Forest Service is trying to take action against the illicit growth of marihuana on the lands under its management, however, the Congress has repeatedly affirmed that the authority for law enforcement in national forests rests with the local law enforcement agencies. That policy makes sense, but we must recognize that local opinions on the cultivation of marihuana vary radically from the law which makes such activity illegal. In fact, in parts of California, law enforcement officials are clearly working against public opinion when they attempt to eradicate the drug. In many cases, in order to get reelected, a county sheriff must soft-peddle the eradication of marihuana because of the importance of the cultivation industry to the local economy.

I ask unanimous consent that the following articles be printed in the RECORD: "Marihuana Cultivation in the National Forests," from a Forest Service publication; "USDA Declines to Forecast 1982 Marihuana Crop" from the Des Moines Register; "Armed Businessmen Grow Marihuana on Federal Land" which appeared in the Washington Times; and, "While U.S. Farms Go Bust, Some Growers Are Cashing In on the Profits of Pot," from People magazine.

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

MARIJUANA CULTIVATION ON THE NATIONAL FORESTS

Increasing threats to visitors, acts of violence, and intimidation of Forest Service employees led Regional Forester Zane Smith, Jr., to announce in June new interim directives for dealing with the problems associated with marijuana cultivation on the National Forests in Region 5.

The interim directives require close cooperation with federal, state, and local law enforcement agencies to prevent marijuana cultivation and protect visitors and employees.

BACKGROUND

Since 1978, use of National Forests and other Federal lands to cultivate marijuana has increased dramatically. Throughout the National Forest System, marijuana valued at more than $700 million was confiscated in 1981 by law enforcement agencies, of which $254 million came from Region 5. It is estimated that more than $2 billion of the total $8 billion worth of marijuana harvested in the United States that year came from National Forests.

Given the high stakes, growers may resort to violence to defend their crops. Some use trained attack dogs, automatic weapons, hand grenades, booby traps, and electronic surveillance to guard against "intruders". Shootings and murders connected with marijuana cultivation are increasing, and in 1981, the Forest Service received 800 reports of confrontations between growers and visitors to the National Forests. Forest Service employees have been warned to "mind their own business" or they and their homes and families will be attacked.

Most confrontations with visitors occur in August and September just before and during the harvest when marijuana has maximum value. Growers and their supporters in some areas are armed with automatic weapons and even law enforcement officers must travel in groups and arm themselves with similar weapons in order to enter and leave the areas safely.

LAW ENFORCEMENT

Marijuana cultivation on National Forests occurs mostly in rural counties where local population is low, economies are depressed, sheriff's departments are small, and the means to enforce laws against marijuana growers are limited. Public resistance to strict enforcement occurs in some areas where marijuana has become an important source of income.

States and counties have exclusive jurisdiction over enforcing the laws of the states and counties on the National Forests. The Forest Service does not have initiating investigatory jurisdiction over Federal laws relating to controlled substances. Federal law enforcement agencies like the FBI and the Drug Enforcement Administration which have such jurisdiction generally concentrate their efforts on traffic rather than the cultivation of marijuana. The State Attorney General, through the Bureau of Narcotics Enforcement and the County Sheriffs, has authority for enforcement of State narcotics laws.

FOREST SERVICE AUTHORITY

Federal statutes (Title 16 United States Code, Sections 551, 551a, 553, and 559, and Title 18 United States Code Section 4) provide authority for the Forest Service with respect to NFS lands to (1) regulate occupancy and use; (2) cooperate with states in the enforcement of State laws; (3) aid Federal bureaus and departments in the performance of their duties; (4) make arrests; and (5) report all felonies to proper authorities.

The Forest Service has jurisdiction in a Secretary's regulation prohibiting any kind of work without a permit. While this regulation clearly applies to the unauthorized cultivation of marijuana, the maximum criminal penalties it provides are 6 months in jail and a $500 fine. The Forest Service has authority to assist County, State, and other Federal law enforcement agencies on the National Forests. In some areas, very effective Forest Service cooperation with other agencies in removing marijuana from the National Forests exists.

REGIONAL POLICY

The new interim directive issued by the Regional Forester include the following main policy statements for developing and carrying out with other affected agencies a cooperative program to eradicate and prevent marijuana cultivation on National Forests in the Region:

1. Employees will report information concerning marijuana cultivation on NFS lands to proper authorities through their line officer.

2. The public and employees will be informed of the adverse impacts to resources and the public caused by marijuana cultivation on NFS lands.

3. Marijuana cultivation will be prevented through: (a) the use of a public reporting identification system; (b) media coverage of Forest Service actions demonstrating commitment; (c) use of non-confrontive early deterrent measures; and (d) initiation of prosecution against growers.

4. Marijuana growing locations will be detected and inventoried.

5. The Forest Service will support and cooperate with other law enforcement agencies in taking action against marijuana cultivation on NFS lands.

[From the Des Moines Register, Aug. 3, 1982]

USDA DECLINES TO FORECAST '82 U.S. MARIJUANA CROP

WASHINGTON, D.C.—The Agriculture Department is shying away from forecasting

this year's marijuana crop in the United States.

In fact, officials said Monday that it has been at least 10 years since the department has published a pamphlet showing how to identify and kill marijuana with chemical spraying.

Last week, the National Organization for the Reform of Marijuana Laws said in a federal court suit that the 1981 marijuana crop was "worth an estimated $8.2 billion nationally, making it the nation's fourth-largest cash crop."

The Agriculture Department's latest figures show that four crops ranked larger in terms of cash receipts collected by farmers last year: corn, $13.6 billion; soybeans, $12.4 billion; wheat, $10.5 billion; and vegetables, $8.4 billion.

COMPARISON

But department officials said the $8.2 billion worth of marijuana, if that was its street value, would be hard to compare with values of crops sold by farmers.

Donald Barrowman, chief of estimates operations for department's Statistical Research Service, said there is no way for his agency to make comparable estimates of production, yield and value for illegally grown marijuana.

He said other federal agencies, such as the Drug Enforcement Administration, have not asked for help in determining the size of the marijuana crop.

"We would be extremely reluctant to get into that, as far as I know the question hasn't even been raised," he said.

Some forty years ago, marijuana was a commercial crop called hemp, grown by farmers to replace the World War II shortage of Manila hemp.

In 1943, more than 146,000 acres of marijuana were grown, producing 140.6 million pounds. Although the effort was abandoned as a commercial crop after the war, so-called wild hemp persisted for years in areas where the crop had flourished.

DESTRUCTION

As recently as 1971, the Agriculture Department drew up plans to pay farmers for destroying wild marijuana. That plan was shelved after Congress barred crop subsidy payments for farmers who allowed wild marijuana to be harvested.

The Forest Service, which oversees 190 million acres of public land, says an increasing amount of marijuana is being grown in timber areas, where it is hard to detect and relatively easy to harvest illegally.

Ernest Andersen, director of law enforcement for the Forest Service, said that he knew of no precise value for U.S. marijuana production. However, Andersen said he personally believes the value could range between $5 billion and $10 billion a year.

"We don't know what the actual inventory is," he said. "If we knew it was there and had the resources to go deal with it, we'd have dealt with it. It's hard to estimate what you don't know."

Andersen said federal, state and local authorities last year confiscated more than $700 million worth of marijuana that was produced on Forest Service land. It is possible, he estimated, that more than $2 billion worth was successfully harvested by illegal growers.

[From the Washington Times]

ARMED BUSINESSMEN GROW MARIJUANA ON FEDERAL LAND

Fertile federal lands in the Southwest have become a dangerous new battleground between entrepreneurs cultivating potent marijuana strains and government agents trying to eradicate the weed.

Although forestry officials are concerned about the pot, they are more worried about homemade booby traps—including hand grenades, shotguns and snakes—that are used to protect the crop.

The problem has become a major one in many states because marijuana growers have discovered the penalty for cultivating pot on federal land is less than growing it on state land. It is only a violation of U.S. agricultural laws to grow it on federal land, but growing it on state land amounts to possession, which carries a harsher penalty.

Some marijuana has been found in all 155 national forests in 43 states, but law enforcement officials are even more concerned about the methods being used to protect the crops.

"There are elaborate plantations with irrigation systems and armed guards and surveillance," said Ernie Anderson, the Forest Services' law-enforcement coordinator. "They move into a very remote area and effectively close it off to use by the public."

The government's General Accounting Office recently quoted a Forest Service official as saying: "It is only a matter of time before a forest visitor or one of our employees is seriously injured or possibly killed because they stumbled onto an illegal marijuana plantation."

Arkansas' Ozarks are one of America's prime marijuana-growing locations and longtime residents say pot clearly has replaced moonshining as the area's major cottage industry.

In April, a forest ranger accidentally waded into a marijuana patch in the Ozark National Forest, but was stopped by a gunman who searched him, then ordered the ranger to "get off my mountain and never come back."

A group of 150 Forest Service employees, state policemen, FBI agents and county sheriffs returned, uprooting and burning more than 10,000 plants worth an estimated $20 million. Six people were arrested.

The marijuana plants, up to 12 feet tall, were being cultivated on 100 plots of remote land.

Forest Service officials say the yearly marijuana corp grown in the Ozark and Ouachita national forests in Arkansas approaches $200 million. If the estimate is correct, the total far exceeds the value of timber harvested on Arkansas federal lands, in a state where forestry accounts for a third of all income.

Bobby Hicks of the Arkansas State Police says marijuana growing on federal lands is big.

"It's so big we can't control it," he said.

Jim Crouch, forest supervisor of the Ozark-St. Francis National Forest, said some marijuana farmers use guard dogs, carry shotguns and patrol their prized plots clad in camouflage suits. The precautions are to protect the pot from other growers as well as from law-enforcement agents, Crouch said.

The Drug Enforcement Administration's chief of domestic marijuana eradication, Larry Carver, says Arkansas now is reputed to be the second largest marijuana-producing state in the nation, behind California.

Arkansas marijuana is reputed to be America's third-best in quality, behind the Hawaii and California crops.

One Arkansas resident, described as a marijuana entrepreneuer, told a reporter: "Arkansas has been so put down. We want to give Arkansas grass an international reputation. We call it Razorbud," in honor of the state university's football team, nicknamed the Razorbacks.

"The amount of marijuana being grown on federal property has increased drastically in the last two years," said Dale Smallwood in Rolla, Mo.

[From People, May 10, 1982]

WHILE U.S. FARMS GO BUST, SOME GROWERS ARE CASHING IN ON THE PROFITS OF POT

Two hundred miles north of San Francisco, nestled below snow-fringed, redwood-studded hills, lies a remote valley. Here, in the town of Garberville, the West is still wild and the sheriff is on the other side of the mountains. Every night outside the Branding Iron saloon, the curb is lined with four-wheel-drive pickups. Their owners, 1982-vintage cowboys, shoot pool inside beneath a Tiffany-style lamp, drink beer, and sway to reggae music. When they drink too much and begin to fight, Rita, the plump proprietress, tosses them out. Often they stumble into the Cellar discotheque nearby. "Half the people in here have been eighty-sixed from the Branding Iron," the Cellar's proprietor, Jerry Fernandez, wryly admits.

Garberville has the look and feel of an outlaw town, and so it is. But nowadays the outlaws aren't rustling cattle. They are taking part in a distinctly modern California gold boom. It is a phenomenal increase in the illegal cultivation of marijuana that has made pot the largest cash crop in California and the fourth largest in the country. Officials estimate that the nation's annual output is 5,000 tons, worth more than $8.2 billion. California alone produced an estimated $1.5 billion harvest last year, to which the people of Garberville and the surrounding area contributed some 50 tons of sinsemilla marijuana. Taking its name from the Spanish word for "seedless," sinsemilla is known to connoisseurs for its extreme potency—and, at up to $250 an ounce, its heady price. Garberville's economy has felt the effects. Once bustling with timber mills, the town was slowly dying until the dope industry arrived. Now prosperous new stores and restaurants have sprouted on the main street. The surrounding hills are dotted with picturesque redwood chalets and log cabins—many with expensive solar collectors on the roofs and new cars parked in the driveways. Says Joe Allen, the district attorney of nearby Mendocino County: "Garberville's prosperity is definitely founded on dope."

The fact that marijuana is illegal seems almost incidental to the locals. An unincorporated town, Garberville has no mayor, no city council and no local police. Gene Cox, the Humboldt County sheriff, 70 miles away in Eureka, is in charge of enforcing the law. But he has neither the time nor the manpower to vigorously prosecute growers. "Marijuana is illegal, and it is proven to be harmful to the body," says Cox. "But we can't eradicate all of it. We are short of help." The Humboldt County Board of Supervisors has not been able to erase the problem. Two and a half years ago they accepted a $15,000 grant from the federal Drug Enforcement Administration to fund their own local investigations but turned down a $20,000 grant, which would have brought in federal narcotics agents. As one businessman told Humboldt County's irate District Attorney Bernard De Paoli at a recent Rotary Club luncheon, "I owe a good part of my business to marijuana."

California's Acapulco gold rush began in 1978, when Mexico began spraying its pot fields with the herbicide paraquat and shipments to the U.S. were cut. Garberville quickly became a garden spot for the new industry. Many of the town's 600 residents are urban hippies who came seeking a pastoral utopia and took to pot farming with alacrity. "I'm here because I'm addicted to beauty," rhapsodizes one 33-year-old farmer named George, who insists on disguising his identity. "Pot growing was something I discovered after I got here." Adds Sam, the owner of a local gardening shop that sells 50-pound bags of "high tech" (very potent) marijuana fertilizer: "The worst insult you can hurl at someone in these parts is to say, 'Why, he can't even get it together to grow dope.' "

Most of Garberville's pot growers believe the "reefer madness" stereotype. The size of a marijuana garden may vary from a small patch with but a few plants to a two-and-a-half-acre field yielding some 4,000 sinsemilla plants. Many producers are like Ellen and Joe (not their real names), a married couple with four children, ages 5 months to 17 years. Ellen and Joe each have their own marijuana plants and their own gardens on opposite sides of their house. In the wintertime they even keep their plants in separate areas of their greenhouse. Sinsemilla, planted at the end of April, requires copious sun, water and care. Harvested in September and October, the plants are then cured, cleaned and manicured. Thanks largely to marijuana, the couple have a rustic redwood home, with another larger one going up nearby.

George is a somewhat less established dealer. A former student at the Fashion Institute of Technology in Manhattan, he tends bar nine months a year at an inn near Garberville and lives in a trailer in the hills. A self-described "guerrilla grower," he cultivates 30 plants on four separate patches of public land (all the better to escape detection by police, he says). On average, he makes $18,000 each year, half from pot farming, a trade he says is full of pitfalls. He once lost a package of dope when it was stolen from the mail—probably, he suspects, by a postal clerk who smelled the contents. He now uses airtight containers. Warns George: "If you're going to be an outlaw, you better be a good one."

Like most growers, Goorge took great pains to find a safe place to plant. To reach his "demonstration" patch (the only one George will show friends), a visitor must park on a secluded section of the road; then, when other cars have passed and the coast is clear. George leads the way on a one-hour trek through rugged woods where poison oak, brambles and thorny bushes grow in wild confusion. As you can see, this isn't the glamorous life of a cocaine dealer," says George. "This is really a farmer's life." His labor has brought him a Datson pickup and a new wardrobe. "This is Reaganomics at its best." he says, "It's capitalism in its purest form—supply and demand."

Garberville's capitalism is relentlessly hip. Young men and women, many with babies in their arms, spend languid hours at the Woodrose Cafe, eating tofu and omelets and reading the San Francisco Chronicle. A community center had no trouble auctioning off antiques at a "benefit boogie" to raise money for the local health center. The area's travel agencies do a brisk business selling plane tickets to Thailand, Bali and other exotic places, particulary after the annual fall harvest.

A few growers do admit to pangs of conscience. "I worry about who's buying this stuff," says Ellen. "Is it some junior high school boy in Chicago?" Although sinsemilla's price is probably too high for most youngsters, its attraction as a crop is irresistible to some: One teenager in Mendocino has reportedly earned $80,000 in three years from a plot.

Still, growing is far from child's play. Like most lucrative illegal enterprises, it breeds violence. The biggest threat to the crop is armed robbery; at harvest time many growers sleep in their patches with rifles or machine guns. "Everyone has guns," say George grimly. "After all, you can't call the sheriff if someone steals pot from you. You either have to shoot it out, go after them, or kiss it off." Some growers equip their gardens with electronic alarm systems, guard dogs and even Bengal tigers. Last year California's Bureau of Narcotic Enforcement found three full-grown Bengals (plus a leopard and a pack of Dobermans) roaming a pot farm in San Gregorio Beach, south of San Francisco, where agents confiscated 500 plants worth $1 million wholesale.

Tales of terror are legion: a thief buried in the middle of a dirt road with just his hand exposed as a warning to others; bodies dumped in the forest; growers surprised in their beds by bands of desperadoes. Last September in Briceland, 13 miles northwest of Garberville, a grower named Forrest Clammer was fatally shot in the head and back reportedly by his bodyguard, who then fled with most of Clammer's dope. The DA says authorities were not informed until November, after nearby properties had been harvested. This violence sometimes spawns paranoia. Says Dr. Ronald Siegel, a Los Angeles drug expert: "Some of these growers are bordering on the psychotic. I think it's because they can't live apart from their drug—just like Scrooge, who couldn't live very far from his money. Once, when I came on a patch, two guys came out of the hills and started throwing rocks at my car. One had a rifle and the veins in his forehead were pulsating as though they'd burst." Adds DA De Paoli: "During harvest season we get 15 to 20 calls a week from hikers, hunters and ranchers who happen on patches and find themselves staring down the barrel of a gun."

The mayhem would probably decrease if marijuana were legalized. Occasionally a representative from NORML (National Organization for the Reform of Marijuana Laws) travels to Garberville with petitions. But few growers will sign them. If pot were legalized, prices would plummet and the boom would go bust. "We really have a paradise here," says Ellen, surveying the view from the sundeck of her new home and stroking her 3-year-old's hair. "But we know it could all end tomorrow. The sheriff could come down from Eureka and arrest us all."

BILINGUAL EDUCATION

Mr. HAYAKAWA. Madam President, I rise to speak on an issue which I believe to be of paramount importance in the area of education—bilingual education. This is not a new drum I strike aloud but an enduring and constant pulse which I shall not let fade or die out.

Last April, I introduced S. 2412, the Bilingual Education Improvement Act, which will make federally funded bilingual education programs more responsive to the needs of local school districts. A month-and-a-half ago this distinguished body passed the Immigration Reform and Control Act of 1982, which legalizes the presence of most aliens now illegally in the United States. Attached to that bill is an amendment I introduced which states it is the sense of the Senate that English be the official language of the United States. Our immigration laws already require English for citizenship. How do we insure that those immigrants who are unable to speak English, grasp our language. It is the role of bilingual education to equip immigrants with the necessary English language skills to qualify them for the requirement of citizenship.

The problem is that all too often, bilingual education programs have strayed from their original intent of teaching English. A related issue is the full scale of interpretation for the term "bilingual education". Chances are that when one asks five people for a definition, five very different answers will be given. According to one interpretation, it simply means the teaching of English to non-English speakers. This is the method I prefer and is usually called English as a second language or ESL. On the opposite side of the scale bilingual education is a more or less permanent two track education system involving the maintenance of a second culture and an emphasis on ethnic heritage. This method is called transitional bilingual education and involves teaching academic subjects to immigrants in their own language coupled with English language instruction.

Madam President, I have had the privilege of reviewing a paper written by Robert E. Rossier, Ph. D. entitled "Bilingual Education: A Non-Conforming View." Dr. Rossier has had experience with the bilingual education programs in Los Angeles. He is currently affiliated with Wilson High School in Los Angeles. and its school district. I have found Dr. Rossier's paper to be a most provocative and very complete work which critiques bilingual education's problems and benefits. I strongly urge my colleagues to take time to read this paper which I am going to submit for the record in five parts during the remainder of this Congress. I ask unanimous consent that the first part of Dr. Robert Rossier's paper be printed in the RECORD.

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

BILINGUAL EDUCATION: A NON-CONFORMING VIEW

(Robert E. Rossier, Ph. D.)

PREFACE

I have long believed that the bilingual education movement was thoroughly political in nature rather than being the beneficient educational support movement it wanted the public to believe it to be. The problem has been that the average citizen has not seen through the bilingual hoax be-

cause he has not been able to read and hear the information that would lead him to understand that bilingual education is a bankrupt educational theory that has been used to benefit everyone but the children it is supposed to help.

When, after some years, I realized that there were few if any individuals with either the knowledge or desire to write a coherent, organized critique of bilingual education that would present arguments derived from reference to research and experience in immigrant education, I decided to attempt the job myself. This paper, good or bad, is the result.

The arguments and supporting information that I present are directed essentially at showing that the bilingual establishment, now very securely entrenched in the schools, got there in the first place by taking advantage of the public's ignorance about second language learning (part of this public has been the legislators who have voted in these programs) and in the more than a decade since the inception of this type of instruction has not been able to prove its case despite the thousands of program evaluations and research studies that have been carried out during this time, most of them by persons sympathetic to bilingual education.

The bilingual research and evaluation record has been bad and would have looked even worse if there had been critical research with which to compare it. Citations are presented in this paper of school district attempts to stifle critical research.

Finally, recent research is cited which supports the use of educational alternatives to bilingual education. From the standpoint of language learning efficiency, cost effectiveness, and compatibility with regular school organization, alternative programs appear to be far superior to bilingual education.

INTRODUCTION

Since the very beginning of this nation, immigrants from all parts of the world have been a major source of its great strength and vitality. They have come by the millions seeking freedom and opportunity and America has seldom disappointed them. Historically, one of the most important vehicles for providing immigrant children and adolescents with economic, social, and political access to the American dream has been the public school system. Besides offering these students the opportunity to carry their studies to a level not possible in most countries of the world, the American schools have given them possibly the most important opportunity of all—the chance to learn the language of the country by means of English language instruction reinforced by daily interaction with native speakers. But virtually unnoticed by the public, this critical avenue to success in an essentially English speaking nation is being progressively narrowed because of the betrayal of the modern immigrant wave by a confederation of power-seeking politicians, unprincipled educators, and, ultimately, by Americans as a whole whose naivete about second language learning has led them to accept unquestioningly the propaganda of those who have diverted immigrant education to meet their own ends.

While no single person or group is totally responsible for this betrayal, in my opinion much of the culpability, nevertheless, can be assigned to the leading personalities in the bilingual education movement; for this reason a critical and objective look behind the propaganda facade can reveal the harm being done to thousands of innocent young people who will some day play a part for better or worse in the destiny of our country. Although this criticism may seem harsh, it is not intended as a blanket indictment. There are many sincere persons involved in some manner or another with bilingual education—parents, teachers, administrators, legislators—who have never had to learn a second language in a foreign setting or who lack experience over time in working with immigrant students who are learning English. These people, however noble their intentions, will probably never understand that bilingual instruction can only retard, not advance, the learning of English for immigrant students. My criticism is directed, instead, at those who do have the background and experience to know how bilingual programs affect the learning of English and still defend the validity of the concept in theory despite their consistent failure to verify its efficacy in practice.

BILINGUAL EDUCATION—A MYTH

Above all, bilingual education in the United States has been built on a foundation of myth, misconception, and distorted fact about how one learns a new language in an immigrant setting. The key premise which inspires almost all justification for the establishment of bilingual programs—that because non-English-speaking students find it difficult at first to understand concepts in the new language, they should therefore receive subject matter instruction in the home language until they learn English—breaks down upon analysis and yet this premise is almost universally accepted by proponents and opponents alike. For this reason the national debate on bilingual education often resembles an argument about baroque art at a sign painter's convention.

THE COURTS

The judiciary, in particular, has fallen head over heels for the non sequitur that "instruction must be given in the home language to the non-English-speaking so that they do not fall behind in their studies while they are learning English." The question of when, where, and how they are to learn English if they are using another language most of the time is always left unanswered and, for that matter, is seldom if ever asked. Judge William Wayne Justice, a federal judge in Texas who, according to the Los Angeles Times, has been elevated to the ranks of liberal sainthood because of several landmark decisions he has made on integration and bilingual education, expressed this credo very simply in a recent decision that ordered that bilingual education be extended to all grades of the Texas schools—"Unless they receive instruction in a language they can understand pending a time they are able to make the transition to all English classrooms, hundreds of thousands of Mexican-American children will remain educationally crippled for life, denied the equal opportunity most Americans take for granted." Implicit in his statement was the assumption that these students would learn English somehow even though they were receiving instruction in the home language. Judge Justice does not know how a second language is learned; he just accepts the myth that it is learned by translation or osmosia or some magic that does not require thousands of hours of difficult and frustrating language interaction in real life situations with the speakers of the language.

This same uncritical acceptance of the bilingual movement's propaganda about how a language is learned was manifested recently by another star of the federal bench, Judge Paul Egly, who presided over the Los Angeles school desegregation case until he finally resigned in a pique. Complaining about California's "inhuman treatment of Hispanic students," Egly attributed this to the state's bilingual education law which he said had caused this type of education to be "ineffective in Los Angeles because of a lack of qualified (bilingual) teachers." Like his judicial colleague in Texas, Egly operated under the assumption that immigrant students learn English by means of translations provided by bilingual teachers.

THE PRESS

But this sublime credulity about bilingual education has not been restricted to the judiciary—it has thoroughly captured the liberal mind. The Los Angeles Times, for example, published an editorial on the subject last year that was a masterpiece of confused and contradictory thinking. In the opinion of the Times, while it is true in many cases "that children can be taught English by hearing English" nevertheless because they "are often immersed at home and in the street in Spanish only, the bilingual approach often works better." What the Times was saying, in simpler language, was that in order for these children to learn English, it is better for them to hear less English (bilingual education) than to hear more English (special English emphasis programs). If children in many cases are only able to hear English at school as the Times indicates, why then reduce the amount of English they hear, as is done in bilingual programs? The inconsistency of this belief is obvious and the Times people would find this out if they were ever interested enough to interview a fair sample of bilinguals who had been through the process.

In arguing against bilingual instruction, its critics have done no better than their liberal opponents in demonstrating that they have any comprehension at all of the principal elements of the debate. Bilingual critics often equate bilingual education with bilingualism, for example, and from this supposed equivalency stems their contention that bilingual education is bad because it promotes bilingualism which they believe to be socially divisive. This argument is interesting because social division may be an indirect consequence over time of the extensive use of bilingual instruction but not because this type of education contributes to any great degree to immigrant students becoming bilingual—because it does not. Instead bilingual programs all too often retard English language learning and thus inhibit the communication between these students and the general population which is so necessary to social understanding and harmony.

THE UNITED STATES AGAINST BENJAMIN SASWAY

Mr. HAYAKAWA. Madam President, I have recently read a very astute media accounting of the case of Benjamin Sasway of Vista, Calif. This young man's refusal to register with the Selective Service System has resulted in a felony conviction. I believe the verdict was just and feel that the integrity of our judicial system has been upheld.

However, what is most important to remember when considering this case, and future cases, is that current law

requires young men to register. And this is the issue. Registration is not optional—it is the law. When people willfully break the law, justice demands that they face the consequences. This is exactly what happened in the Sasway case. A lawbreaker has been convicted.

You may hear men refusing to register claim that "it is a matter of principle" or "I wish to keep my country from an immoral war." So, because of what a few men consider a matter of principle, they refuse to obey the law. No consequence appears to be given to the fact that the Government enacting these laws is based on principles of democracy and freedom. These men feel their principles are compromised; their idea of morality is jeopardized; and their rights are infringed upon. This self-oriented philosophy of right and wrong is no way to run a democracy where justice is mandated by the majority. What kind of society would we have if every individual could pick and choose which laws he or she likes and wishes to obey. The author of "The U.S. vs. Benjamin Sasway" is so right when he says:

The mere potentiality of an evil does not justify civil disobedience in a democracy. Our social contract as responsible members of a self-governing community has to be stronger than that.

As priviledged members of a democractic society, all of us have an obligation to accept the responsibilities which come along with the freedoms. We all must contribute to the protection of the Nation which makes these freedoms possible.

I ask unanimous consent that the article entitled "The U.S. vs. Sasway" which appeared in September 2, 1982, edition of the Tribune be printed in the RECORD.

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

[From the Tribune, Sept. 2, 1982]

THE U.S. VS. BENJAMIN SASWAY

Federal judge Gordon Thompson is being criticized for the way in which he presided over the trial here of Benjamin Harlan Sasway of Vista on the charge of refusal to register for the draft. It is said that Thompson should have allowed Sasway to tell the jury his reasons for refusing. And the judge is criticized for remanding the defendant to jail immediately upon the unanimous jury verdict of conviction, instead of allowing him to remain free pending appeal.

It is perhaps unfortunate that Sasway was not permitted to explain his motivation. Legally, Judge Thompson is undoubtedly correct. The reasons were not relevant and were not necessary to establish criminal intent. But it was a jury trial, and juries often take moral issues into consideration, aside from the narrow legal issues in a case. If they had considered Sasway's full defense, we believe they would and should have convicted him anyhow.

Civil disobedience is a powerful weapon. It is not one to be used lightly. The nature of the cause is essential to any justification of disobedience. For example, if a citizen claimed that his conscience directed him to drive his automobile on the lefthand side of the road, rather than the right, he would be ridiculed and his driver's license would be revoked without public controversy. The business of life cannot be carried on in any society without some basic contract between the members of the community in agreement on the ways of doing things in common and relating to each other.

Since its birth in revolution, this country has been peopled with rebels, many of whom have prided themselves on being what Robert Frost called "unamenable bastards." But it took the eccentric writer, Henry Thoreau, to devise the doctrine of civil disobedience. He objected to slavery and to the Mexican War, and he spent a night in jail for refusing to pay his taxes.

Mohandas Gandhi carried Thoreau's doctrine to an extreme, spending years in jail to protest the imperial British rule over India.

It was the trial of the Nazi war criminals at Nuremberg, however, that codified the principle that a man was fully responsible for his actions in carrying out government orders, even though it was his legal duty to do so. If the orders were morally criminal, he became a criminal for carrying them out. It was his moral duty to defy the law.

Now that is a principle which can be profoundly subversive of law and order. It is one that should be invoked only upon great causes, especially in a democracy such as ours, where the principle of majority rule is enshrined in a written constitution and individuals are protected against the tyranny of the majority by a Bill of Rights and an independent judiciary.

Sasway's reasons are not sufficient. He says he objects to the draft because it might lead to his participation in some immoral war. But, first, there is no draft. Volunteers are thronging to the military and enlistments have been closed for a time. There is no need for compulsory military service. And, second, the morality of international warfare is a dubious propositon at best, seldom clear until years after the fighting ends, at which time morality is usually proclaimed to rest with the victors. An immoral war is always possible. The mere potentiality of an evil does not justify civil disobedience in a democracy. Our social contract as responsible members of a self-governing community has to be stronger than that.

As for Judge Thompson's sending Sasway directly to jail, we fail to see any cause for criticism of the judge. After all, non-violent civil disobedience as practiced by Thoreau and Gandhi involves the willing acceptance of criminal penalties. Thompson has only given Sasway what he wanted and asked for.

SAN FRANCISCO CABLE CARS

Mr. HAYAKAWA. Madam President, at 4:55 yesterday morning, the noise and excitement of the San Francisco cable cars were temporarily stilled. The aged and tired cable machinery and cars will be undergoing extensive repair over the next 2 years. For the first time in a century, the Nation will be without cable cars.

San Francisco's first cable car was built in 1873 by Andrew S. Hallidie, a Scottish immigrant and ropemaker. The cable car system quickly became so popular that it was used as a prototype for many others. By 1890, cable systems were installed in 36 cities in the United States and abroad—all inspired by Hallidie's model.

Yet the popularity of the cable car was cut short by the introduction of the electric streetcar. By just 1902, all cable systems had been replaced by electric trolleys—with the exception of San Francisco's. The first had become the last. As San Francisco developed into one of the most beautiful cities of the Nation, cable cars became symbolic of that lovely city. People came from the four corners of the United States as well as the rest of the world to experience the joys and excitement of riding the cable cars over the San Francisco hills. Indeed, the cable cars had become a national treasure.

Even apart from their historical significance, the cable cars have played an important role in the economics of San Francisco. They have contributed greatly to the strength and growth of its tourist industry. Thousands of visitors come to San Francisco each year for the cable cars alone. It is estimated that San Francisco's tourist industry would lose $75 million annually if the cable car system fell into ruins.

Recently it has become apparent that the system must be renovated if it is to be saved. Recognizing the potential loss, a citizens' group in San Francisco was established—the Committee to Save the Cable Cars. The committee attained 80 percent of the estimated $58 million in renovation costs from the U.S. Department of Transportation. The people of San Francisco, through the committee, have raised $9 million of the remaining $10 million. Yesterday the renovation began and the cable cars will be shut down for less than 2 years. We all hope that on June 1, 1984, the people across the Nation may join the people of San Francisco in celebrating the return of the cable cars.

I also wish to salute the contribution of Friedel Klussmann, who showed how much a civic-minded person with a sense of history can accomplish when she initiated the first "Save the Cable Cars" campaign in 1947. Her story was recently retold in conjunction with a story on the cable car renovation project in the San Francisco Chronicle of September 17, 1982. I ask unanimous consent to include the two articles in the RECORD.

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

[From the San Francisco Chronicle, Sept. 17, 1982]

THE LADY WHO RESCUED THE CABLE CARS

(By Carl Nolte)

Anyone who ever rides a cable car owes an immense debt to a very frail, very gracious elderly lady who lives in a wonderful house on Telegraph Hill. She is Friedel Klussmann, and 35 years ago, in the face of determined opposition from the city's establishment, she saved the cable cars from extinction.

She remembers it clearly. "I saw an item in Herb Caen's column in the morning Chronicle that said Mayor Roger Lapham had decided to get rid of the cable cars.

"I said to myself, 'Oh, no, they can't do that to San Francisco.' "

And, as it turned out, they couldn't.

"They already had the buses bought. You'd wake up some morning and the cable cars would be gone and the buses would be there. Once they took them away, we'd never see them again."

Almost by accident, Klussmann found herself at the head of a coalition—mostly women at first—that went to City Hall to fight for the cables. Arrayed against them were the mayor, the Chamber of Commerce, the Municipal Railway and every transit expert that money could buy. The cable cars, they said, were dangerous, expensive and old-fashioned.

"They didn't give us a moment's consideration. They thought we were just a bunch of dumb women."

Klussmann and her friends were tough and persistent. They had facts and figures, and the other side had what Klussmann bluntly calls "lies."

The coalition, by then a citizens' committee, also had a secret weapon. "I said, 'Let the people decide. They belong to the people, they are paying for them.' "

"It's amazing how little the politicians cared for what the people thought," she says.

She thinks her cable car campaign had hit on something else. The cable cars, she feels, are part of the spirit of the city. "It hasn't got a body," she says. "It's like an angel floating around out there that says 'Don't touch me.' "

Her group forced an election, and the people voted by more than 3 to 1 for a charter amendment to protect the cable cars.

"It was an incredible civic thing where a whole city turns over emotionally for something like a weird, funny cable car."

The cable car's friends did not win all their battles, which went on for years. When Klussmann started, in 1947, there were six cable car lines, but after a secret meeting of the Public Utilities Commission and a confusing and bitter 1954 election campaign, half the lines were amputated.

What's left is the system as it exists now. Every so often, though, the cable car's enemies try again. As recently as 1971, they wanted to cut back service on the California Street line, a move that Klussmann saw as an attempt to nibble away at the system.

That plan was also defeated at an election, but last year a charter amendment was passed to allow increasing the cable car fare to $1, substantially higher than the regular Muni fare. "I thought that very unwise," she said. "It's a last stab to do the cable cars dirt."

She learned over the years to mistrust City Hall, and when the city's political leadership proposed to rebuild the cable car system, "I was flabbergasted. They are doing what I said years and years ago should be done.

"I really think, now that we have plunged into it, that it will be something good." She and P. Q. Chin, the chief engineering consultant on the job, are good friends, and Klussmann has every confidence. "I think he's going to be very careful. If they change it, they'll spoil it," she says.

"You can do anything in San Francisco, but you can't touch the cable cars."

'84 CABLE CARS—NO MORE CLICKING

(By Carl Nolte)

When the cable cars go back in service in 1984 after $58.2 million worth of repairs, they will be a lot safer—and a lot less colorful.

It will be a bit like a patient who has had a heart transplant—everything's almost the same on the outside, but inside, where it counts, everything is different.

New welded rails will eliminate all the bouncing and jouncing and the familiar rattle of the cars. New machinery under the streets will replace much of the antique technology with "state of the art" pulleys, wheels and other mechanical devices to move the cable.

The cable car barn, which now resembles a Victorian curiosity shop, will be gutted. A whole new building, larger and more modern, will be put in its place. Only the old brick facade will be the same.

The crews will probably be different. All of the 230 men and two women who run and maintain the cable car system have been offered other Municipal Railway jobs. Many say they plan to come back to the cable cars, but several say privately it's time to move on.

"Wait until they find out how much easier it is to operate a car in the Metro system," said one. "You won't see them here again."

"I'm planning to come back," said another, "but who knows what I'll be doing two years from now. Do you know what you'll be doing in 1984?"

When work commences, even the thousands of rats that live under the streets are expected to move to new neighborhoods.

Rebuilding the cable car system will be painful. The optimists say that digging up 69 blocks of streets in the heart of the city will produce "major inconvenience." The pessimists speak of "chaos."

But if San Francisco wants to have cable cars, the work must be done. Without it, the cable car system would probably collapse in a matter of months.

Here's what the money will buy.

SEWERS AND STREETS

Utility engineers see the cable car project as a golden chance to fix up miles of sewers and gas mains under the streets. Most of the sewers under the cable car streets have not been repaired since the 1906 earthquake, and some of the sewers are said to be made of wood.

Construction manager Clay Baldwin doubts this—he says that the oldest sewers are made of brick—but nobody knows for sure. They won't find out until they open up the streets.

The street and sewer work will cost $10 million in addition to the $58 million price of the cable car work.

The first move is to rip up the tracks and cable conduit, a project that will be done in stages. It will produce a ditch 4½ feet deep and 22 feet wide on every cable car street except Washington and Jackson, where the ditch will be narrower. Parking in the downtown, Chinatown, Nob Hill, Russian Hill and North Beach areas, already difficult, will become next to impossible, and there will be a lot of dirt and noise.

CABLE CARS

The cars will look the same, but the Muni is thinking of making changes in the brake system. One plan being tested is to install hydraulic brakes in place of the mechanic brakes used for 109 years.

Some cable car crews think this is a good idea. "It will cut down on accidents," says gripman Al Davison, who has been injured several times at work.

Others are fiercely opposed. "If anybody should know how to operate these cars, it's us," says Wayne Buford, a gripman who circulated a petition denouncing the idea. "They should leave the cars alone. They are a class item," he said.

He got 115 signatures in only half a day from cable crews, only three men refused to sign.

THE CABLE

Impressed by the cables used on aerial trams in Switzerland, the Muni tested a Swiss-made cable on the Powell-Mason line last month. It started to unravel in only 17 days, compared to the 100-day life of the traditional American-made cable. Cable-splicing crews couldn't fix it, so it was thrown off the winding machinery, cut in 500-foot lengths and sold for scrap.

THE POWERHOUSE

At present, the cable is powered by the 650-horsepower electric motor, with another motor as a standby. Any failure causes the whole system to shut down. The single-motor system will be replaced with four motors, so if one segment of the system fails, the others can operate.

The machinery that drives the cables will also be replaced, including the huge drive wheels, called bull gear, and the big pulley wheels, called sheaves. A simpler and hopefully better system will be installed.

"Unless the old winding machinery can be placed in some museum," says Baldwin, "It will go for scrap."

THE CAR BARN

Now a funky old building that vibrates as the cable machinery moves, and cluttered with such things as odd pieces of cable cars, ancient hand-crank telephones and enough assorted Victorian junk to stock several antique stores, this building is going to get The Treatment.

At present, the superintendent's office contains the superintendent, Walter Ware, an ancient shotgun and an elderly billy club to fend off robbers. Sometimes, the system is managed by leaning out the window and yelling at passing cable cars.

When the barn is rebuilt, the cable car managers will have spiffy new offices in an all-new third story that will be added to the present building. They may even put carpet on the floor.

The new car barn will be bigger and roomier, and it won't fall down in an earthquake. Outside, it will look like 1887, inside it will look like 1984.

CABLE MACHINERY

Now the cables go from the powerhouse to the street by way of a dimly lit eerie tunnel under Washington and Mason streets that looks like something from the set of a horror movie.

The cables hiss like snakes; the wheels and pulleys that carry the cable rattle and the brick arch ceiling drips moisture. It's called the sheave room, or sometimes "the hole," and some say it is haunted, a story vigorously denied by cable machinery chief Bill Wearin.

All this will be changed, rebuilt and updated. The pulleys under the street will be the best and most modern available. The cable conduit will also be changed, and so will the yokes that support the track.

Because very few people have ever seen the gear under the street, tourists will never know the difference.

THE TRACKS

One thing people are sure to notice is that the cars will sound different. The bells will still be there, but the rails will be welded, like BART's rails. They will use the best technology available, and that means no more clickety-clack; instead the cable cars will rumble.

Some tracks will be realigned, and there will be many more switches to allow the double-ended California street cars to run on Powell Street, if desired.

The terminal at Hyde and Beach streets will be redone, and idle cable cars will no longer park on the hill in front of the Buena Vista cafe; instead, they'll be stored in Victorian Park between runs.

There will be spur tracks at Bay and Taylor streets, which will be made into a mall. A plan to do the same thing at Powell and Market streets ran into opposition from nearby merchants. Muni chief Richard Sklar also wants to make Powell Street into a mall between Geary and Market streets, but the business people are ready to fight that.

The cable tracks along Columbus Avenue will be realigned so the cars don't run down the middle of the street.

There will also be various changes in the track alignment on Powell and California streets, but the peculiar three-rail arrangement on portions of Washington and Jackson Streets will be retained. It was cooked up nearly 100 years ago by the old Ferries and Cliff House Railway, but modern engineers couldn't figure a way to do it any better.

OTHER IDEAS

A plan to extend the Powell-Mason line three blocks to Fisherman's Wharf was discussed briefly, then dropped, says Baldwin. "Our federal grant is for rebuilding the system, not extending it," he says.

So was a plan to run some of the California Street cars out Hyde Street, but the new system will be built so that such extension can be made at some later date, if desired.

The cable car system is a National Landmark, and historical standards will be strictly adhered to, says Baldwin. "Great care will be taken," he says.

But, he adds, "It is fair to say there will be some difference in the way it feels and sounds." Yet in an antique where feel and sound are part of the charm, any difference is important.

One major question remains: Will the job be done on time? San Francisco has never been a place where anything is done on schedule, but Chin and Hensolt, the engineers who planned the project, and O'Brien-Kreitzberg, the project managers, all swear it will be finished on budget and on time.

There are $2500-a-day penalties for delay for each of the seven major contractors. If everything works as planned, the first car in revenue service will roll out of the barn at 6 a.m., June 1, 1984, if the Good Lord is willing and the creeks don't rise.

HOW DEAD HORSES SPURRED CABLE CARS

(By Carl Nolte)

The cable car was invented in San Francisco in 1873 by Andrew Smith Hallidie, who wanted to find a way to transport passengers to the top of steep Nob Hill.

Though Hallidie is generally acknowledged as the father of the cable car, much of the technology was developed by William Epplesheimer and Henry Root.

Before cable cars, most public transit in the United States was powered by horses, but an epidemic in 1872 killed or crippled 2500 horses in Philadelphia and 18,000 in New York, forcing great changes in public transit.

Cable car systems displaced horsecars in 29 American cities.

The Chicago system, which ran for 25 years, was the largest. In 1892, it carried 237 million riders. By comparison, the Bay Area Rapid Transit system expects to carry 50 million passengers this year.

The invention of the electric streetcar soon caused the demise of cable transit. The cable car survived here mainly because our hills are too steep for streetcars.

A TRAIL OF NOTABLE SMASHUPS

(By Carl Nolte)

Cable cars are not always the safest form of public transportation.

The most spectacular cable car accident happened in Denver in the 1890s, when a car failed to let go of the cable and hit a railroad train, but the worst accident occurred in San Francisco in 1967, when a loaded cable car ran away on the Hyde Street hill and crashed into several automobiles. The wreckage then caught fire. Two people were killed and 43 injured.

Another bad one was in 1924, when a packed California Street cable car ran away on Nob Hill and smashed into a meat wagon.

Dazed and bleeding passengers got mixed up with pieces of sausage and raw meat, which they feared were dismembered victims. "Scores of women fainted," the newspapers reported. Women don't faint any more, but the cable cars still crash into things.

The strangest cable car story involves an accident that happened in 1964, also on Hyde Street, when a woman was injured on a runaway cable car.

She later claimed the accident had turned her into a nymphomaniac. She sued the city and collected $50,000.

MYRON LEE

Mr. HAYAKAWA. Madam President, I am pleased to come before my colleagues to commend the dedication and selflessness shown by Mr. Myron Lee during his tenure as a U.S. Forest Service firefighter.

Mr. Lee recently retired as the Fire Management Officer of the Cleveland National Forest in California. His career as a firefighter began in 1944 with the San Diego County Ranger Unit of the California Department of Forestry. He became a member of the U.S. Forest Service in 1946 and has seen continuous service with them, except for a military leave of absence in 1952, until his retirement in July.

Myron Lee has been the recipient of several awards during his career. In 1976, he was honored by the Chief of the Forest Service for outstanding leadership in the field of fire management. Recently he has been recognized for pioneering the cooperative programs involving Mexican and United States wildland firefighters and, in January 1982, he received the Federal Employees Distinguished Service Award.

I extend my personal thanks to Myron Lee for his contributions to the U.S. Forest Service throughout his career and offer my best wishes for his retirement.

Recently an article entitled "After 39 Years Fighting Blazes, He's Free of Calls" appeared in the San Diego Tribune regarding Mr. Lee's career. Mr. President, I commend this article to my colleagues and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

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

AFTER 39 YEARS FIGHTING BLAZES, HE'S FREE OF CALLS

(By Michael Richmond)

After nearly four decades, Myron Lee is looking forward to a new experience "finding out what being free is like."

"I don't know what it will be like, for example, to be able to go to a shopping center without having to call someone first to tell them how to get hold of me," he said.

As fire-management officer for the 500,000-acre Cleveland National Forest, Lee has always been on call. But no more.

"I gave my pages to my assistant a little while ago," he said yesterday, as his last day on the job drew to an end.

Today he is beginning to enjoy his newfound freedom upon retiring from a long federal career highlighted by receipt this year of the prestigious federal employees' Distinguished Service Award.

"I'm pleased and satisfied that the things I've set out to do I've been able to accomplish," said Lee, who pioneered cooperative programs involving U.S. and Mexican fighters of wild-land fires.

He praised cooperation among his agency, the state and 70 local fire agencies.

For Lee, it all began in 1945 at the age of 15 when he worked on a fire-suppression crew in Ramona for the California Division (now Department) of Forestry. Upon turning 18, he switched to the U.S. Forest Service, fighting fires during the summers and working at odd jobs in the off-seasons. He signed on full-time with the Forest Service in San Diego in 1950.

"It's in your blood, just like the sea," he said as he recalled the early years of his career.

He rose from firefighter to district fire-control officer before assuming the top fire-management post in San Diego in 1968.

Fighting wildfires was a lot different 37 years ago.

"We didn't have much of a communication system at all," he said "There was no such thing as portable radios. We depended for the most part on the telephone system, and we had a lot of horses and a lot of mules to haul material to and from the fire lines.

"To find a hot spot we would have to feel the ground with our hands and find out where it was still hot," he said. "Now we have infra-red imagery portable equipment and a pretty sophisticated fleet of aircraft."

One thing that has not changed in 30 years is the need for well trained crews with hand tools get into the thick of the smoke and fire to grub out fire lines to halt the spread of flames.

As fire-management officer he trained and managed fire suppression personnel and served as the overall coordinator of strategies for fighting fires. He has served as fire boss on some of the state's largest confla-

grations, including the 175,000-acre Marble Cone fire in the Los Padres National Forest in 1977 and the disastrous Laguna Fire here in 1979.

For Lee, the Forest Service has been "like a family." It is a close-knit group with rangers often living and working together in isolated areas.

Lee will be saluted at a retirement party Friday in the Elks Lodge in El Cajon. He will have an opportunity to greet co-workers, relatives and former associates, some of whom are coming from as far away as Illinois.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Madam President, I ask unanimous consent that the time for routine morning business be extended under the same terms and conditions as heretofore ordered not past the hour of 2 p.m.

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

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the Senator from Vermont (Mr. LEAHY) as a delegate to the North Atlantic Assembly meeting, to be held in London, United Kingdom, November 14-19, 1982.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

(Mr. NICKLES assumed the chair.)

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of House Joint Resolution 520.

Mr. BAKER. Mr. President, as I announced earlier, it is my intention to move to recommit this bill with instructions to report back forthwith.

I regret that in many ways, because I had three commitments outstanding, and I believe that in good faith I have been able to perform on only two of them.

The commitments were, first, that there would be a debate on the social issues, meaning particularly abortion and prayer. Surely, no one can claim we have not had that. We began that debate on August 16, over a month ago. The Senate has consumed more than 50 hours of debate. There were four cloture votes on the prayer amendment, which I support, and three cloture votes on the abortion amendment, as well as a variety of other measures, including tabling motions.

As I indicated earlier, I fully support the effort of the Senator from North Carolina with respect to prayer, and I support an abortion amendment that would roughly conform to the way the law is now—that is, the prohibition against the use of Federal funds for abortions except in those cases where the mother's life is at risk or perhaps in other cases, such as rape or incest, under certain circumstances. But this is not the place to argue that point.

The point is that we have reached the place, after a month, where I think the opportunity to debate those issues at this time has ended. The Senate has exhausted the possibilities of enacting reasonable legislation in that field, and it is time to move on, as indeed we are now doing.

The other commitments I made—and which I hope Senators will understand has been inevitably modified, at least, if not extinguished, by force of circumstances—was the opportunity for Senators to offer amendments to the debt limit bill. There are a number of Senators who wish to do that. I could think of a half dozen or dozen amendments that have been mentioned to me that Members would like to offer to the debt limit bill.

Mr. President, it was my firm and full intention to include those things in the debate at this time; but, as I said earlier, I think the circumstances have overtaken us. Indeed, in many ways they have overwhelmed us, and we have used up what I think is the reasonable time for debate on the debt limit bill on the few issues—that is, prayer and abortion—and there is powerful little time remaining for debate on other amendments.

As I say, I regret that. That is just a fact of life. We are coming down the home stretch, and my final word is that I hope Senators will forbear to offer those amendments to the debt limit bill and that we can get on with third reading and final passage. But before that can be done, it is necessary that we clean the bill of the amendments that already have been added to it.

I have consulted with the distinguished chairman of the Finance Committee, and I see the distinguished senior Democrat on the Finance Committee in the Chamber. They are aware of what I am going to do, as I believe every Senator must surely be aware.

Mr. President, I now move to recommit House Joint Resolution 520 to the Committee on Finance with instructions to report the joint resolution back forthwith.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 46 Leg.]

Andrews	Cohen	Murkowski
Baker	Garn	Nickles
Baucus	Gorton	Quayle
Brady	Hatfield	Schmitt
Burdick	Heflin	Warner
Byrd, Harry F., Jr.	Helms	Zorinsky
Byrd, Robert C.	Jackson	
	Long	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of absent Senators and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

The PRESIDING OFFICER. Are there Senators in the Chamber who have not voted who wish to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—93

Abdnor	DeConcini	Humphrey
Andrews	Denton	Inouye
Armstrong	Dixon	Jackson
Baker	Dole	Jepsen
Baucus	Domenici	Kassebaum
Bentsen	Durenberger	Kasten
Biden	Eagleton	Kennedy
Boren	East	Laxalt
Boschwitz	Exon	Leahy
Bradley	Ford	Levin
Brady	Garn	Long
Bumpers	Glenn	Lugar
Burdick	Gorton	Mathias
Byrd, Harry F., Jr.	Grassley	Matsunaga
Byrd, Robert C.	Hart	Mattingly
Cannon	Hatch	McClure
Chafee	Hatfield	Melcher
Chiles	Hawkins	Metzenbaum
Cochran	Hayakawa	Mitchell
Cohen	Heflin	Murkowski
Cranston	Heinz	Nickles
D'Amato	Helms	Nunn
Danforth	Hollings	Packwood
	Huddleston	Pell

Percy	Sasser	Thurmond
Pressler	Schmitt	Tower
Pryor	Simpson	Tsongas
Randolph	Specter	Wallop
Riegle	Stafford	Warner
Roth	Stennis	Zorinsky
Rudman	Stevens	
Sarbanes	Symms	

NAYS—4

Goldwater	Proxmire
Johnston	Quayle

NOT VOTING—3

Dodd	Moynihan	Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I understand now my motion to recommit House Joint Resolution 520 is the pending question before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I think it is important that we have a little time to discuss this matter and I do not ask the Chair to put that question. I see other Senators on the floor. I am going to leave the floor for a moment to consult with certain other Senators. So if someone has a question he wishes to put, I will be glad to try to answer it. Then I will yield so anyone else can gain recognition or I will suggest the absence of a quorum.

Mr. LONG. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I want to ask the majority leader if it is not correct that the usual purpose of a motion to recommit and report back is to put the bill in such shape that it can be passed? While it is the right of any Senator to offer an amendment after the bill has been reported back, the tradition is that when such a motion is made and agreed to by the Senate, the Senate has more or less agreed that Senators will not vote for further amendments, and they intend to keep the bill in the fashion in which it was reported back.

Mr. BAKER. Yes, Mr. President, I think that clearly is the tradition of the Senate; that this device is used to clear a bill of amendments that have been offered and to bring it back so that the Senate can adopt the bill without further change. That is certainly not the rule. As the Senator properly points out, the bill would be subject to amendment after it returns stripped of the amendments that are presently on it. But the reason for making this motion is to clean up the bill and get it in shape so we can pass a simple debt limit in the form passed by the House of Representatives and send it to the President before the expiration of the present debt limit at midnight on September 30.

Mr. LONG. Mr. President, is it correct that when the majority leader makes this motion, can we rely upon the fact that he intends to resist any amendments to the bill after it is reported back?

Mr. BAKER. Mr. President, that is my intention. But there are certain other matters that I have to explore with the distinguished minority leader before I can make a categorical representation in that respect.

Mr. ARMSTRONG. Will the Senator yield?

Mr. BAKER. Let me first yield to the minority leader and then to the Senator from Colorado.

Mr. ROBERT C. BYRD. Mr. President, I recognize the position that the distinguished majority leader is in. This bill has been before the Senate since August 16, as he indicated earlier today, a period of 5 weeks. During that 5 weeks, the majority leader has carried out commitments which he has made as best he can. The 5 weeks have been absorbed, for the most part, however, in debate on amendments that came from the other side of the aisle. They dealt with abortion and they dealt with school prayer.

Now, there are some Senators on this side of the aisle who would like to have an opportunity at some point to debate—and I hope we could achieve a time agreement—to debate and act upon the jobs bill, and the unemployment compensation bill. I had earlier intended to mention the crime bill on which there is a time agreement, but the distinguished majority leader has already indicated that there will be an opportunity to take that bill up and that he will move to take that one up.

But the third measure I have in mind is a bill that was placed on the calendar to improve job training and job placement programs and educational assistance programs for veterans.

We feel, on this side of the aisle, out of fairness to those in the minority who strongly support these three measures, that there ought to be some opportunity to debate and vote on these three measures.

We would like to have an up-or-down vote, but even if it were not an up-or-down vote, we would like to have debate, brief debate, at least, and an opportunity to offer these amendments and get a vote on them—even though not necessarily on this bill.

When this measure is sent to the committee, if it is sent to the committee in accordance with the motion, it comes back clean. Amendments can be offered to the measure. The instructions can also be amended so as to get a vote on these measures that I have mentioned.

I would hope that we could work out some orderly procedure, however, whereby the majority leader could schedule these measures at his convenience before we go out before the election so that those on this side who have sat for 5 weeks listening to debates on amendments on abortion and on school prayer would have an opportunity to vote on measures which affect the economy of this country, and which affect the employment of people throughout the country.

In my State we have about 10,000 coal miners out of work. We have several thousand steelworkers out of work. We have several hundred persons who have lost their jobs at Kaiser Aluminum at Ravenswood. We have high unemployment all over the State. There are going to be other West Virginians who face the prospect of losing their jobs. We think it only fair that we have an opportunity at some point during the next week to briefly debate and have a vote on these measures.

I would like to support the majority leader's motion to send the measure back to the committee and strip it of its amendments. There is at least one amendment, and maybe two, however, that the majority leader and I joined in adding to the bill. One dealt with the Senate gymnasium. I have discussed this with the distinguished majority leader. It would be our plan, I hope, to do something about that proposition at some point. The majority leader will speak for himself. We are in agreement on the necessity for dealing with that matter at some point.

I would like to support the distinguished majority leader in moving to recommit the measure, clearing it of the amendments. While I might not vote for the bill as passed by the House, I think the decision of some Senators on this side of the aisle with respect to at least the final vote on the House bill may depend on whether or not we can get some assurance that there will be an opportunity for us to have a debate and vote on the jobs bill and on the unemployment compensation bill, and on the measure that pertains to assistance to veterans.

The majority leader is a man of his word, in whatever he says. If he can give some assurance that he will attempt to give us a vehicle or give us an opportunity or call the bills off the calendar—they are all on the calendar—and debate for a short time those bills, it would be appreciated even if a motion to table is made. We understand that is a Senator's right to so move.

We do feel, Mr. President, that in all fairness we are entitled to a vote on or in relation to these three matters before the Senate goes out. They are on the calendar and they can be called up, or at least a motion can be made to call them up, by any Senator. I would just hope that the majority leader could give us some assurance today, however, that he will do whatever is

within his power to see that we get this opportunity. I think this would help in getting the votes on this side of the aisle for the final passage of the House bill without amendments once it comes back from the committee. I am not urging that we call up these amendments to the bill after it is brought back before the Senate, though that is open to any Senator. I am not urging that we do that. I would like assurance, if the majority leader can give it, that we will have an opportunity to take up these issues at some point before the Senate goes out. We will not debate them for 5 weeks as these other matters have been debated. We can debate them for 1 hour, as far as I am concerned, and have a vote.

But if the majority leader, after listening to my request, can give that assurance, I think there are many on this side who will appreciate the opportunity to vote on these measures.

Mr. BAKER. Mr. President, most of us in the Senate Chamber have heard of waiting around for the other shoe to drop, and for a while I thought that the other shoe was the prayer amendment to follow abortion. But I must say I do not believe I ever saw an animal with five legs before that had five shoes to drop. Now we have done abortion and prayer and we are faced with the request—and it is a legitimate request—by the able and distinguished minority leader to take up three other controversial issues on this bill. He has a perfect right to do that. There is no doubt about it.

As I understand his request to me it is, "Will you give us an opportunity to take up these measures if we will not put them on the debt limit?"

I understand that and I respect that. That is an honored tradition in the Senate, one that I recognize and have even engaged in myself from time to time, more in the past than the present. But I understand that and I appreciate it.

But, Mr. President, we have the same problem here that we had to a degree with abortion and prayer. That is, at some point you have to get on with the country's work. Whether it is a sugar amendment or a coal slurry amendment or a railroad amendment or a holding period amendment or a veterans amendment or a jobs or unemployment compensation amendment, at some point you have to get on with the business at hand.

Mr. President, I hope that we could arrive at a time when we could get final passage of this debt limit clean, because we simply have to get this bill to the President. I am willing to think about other possibilities with the minority leader on other measures. It will take me a little while to do that. I will have to give it some thought. But I will state now I really would prefer not to do it on this bill because once we open this thing up there is no telling where it is going to end. Five weeks, it seems to me, is long enough. But I will think about that. I will take a few moments here and leave the floor and consult with my leadership and the others who are directly involved and we will see what we can do.

I would point out to the minority leader that we, too, have an interest in those same subjects, that indeed the conference committee completed its action yesterday or will complete it today on a jobs bill. It is not just in the House or Senate but this one is through Congress or just about through Congress. I will ask the Senator from Utah about that.

Mr. HATCH. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. HATCH. I think everybody is in agreement on the jobs bill.

Mr. BAKER. Mr. President, I point out to the distinguished Senator——

Mr. KENNEDY. Mr. President, may I have the majority leader's attention, since I am a cosponsor of this particular measure?

I think it is very important, since we have been talking about the issue of jobs, to understand that that is the Youth Training Act. It is in no way a jobs act. As the principal cosponsor of it, I think it is extremely important, when we are trying to understand where we are here today, to say that I have worked very closely with the chairman of the subcommittee (Mr. HATCH) and with Mr. QUAYLE, who has done an outstanding job.

That is a youth training program. It does not do anything for displaced workers. It is in no way a jobs program.

I also wanted to indicate to the majority leader my strong support for what the Senator from West Virginia has stated. We have debated for 5 weeks these two issues and all we are really asking now is to have 1 hour to debate an issue that can affect the lives of more than 250,000 men and women of this country.

The PRESIDING OFFICER. The majority leader has the floor. Does he yield the floor?

Mr. BAKER. Mr. President, I do not yield the floor, but I also do wish to interrupt the Senator from Massachusetts if he wishes to continue. I am in no way trying to argue a Kennedy bill as opposed to a Hatch bill. We have a "son of CETA" bill on one side and a jobs bill on the other, and this is not the time to argue it. This is not apples and oranges, but it is not oranges and oranges, either.

Mr. President, my point is that there is legislation in this field that has moved along not only in the House and the Senate but through Congress as well. I was about to say the Senator from Wyoming, the chairman of our Veterans' Committee (Mr. SIMPSON) has just completed action, I believe through the conference stage, on the most comprehensive veterans bill we have had in a long time.

Is that not true? Is not the conference report finished on that, I ask the Senator?

Mr. SIMPSON. Mr. President, we have a bill for veterans' benefits which is scheduled on the Consent Calendar today. We anticipate that the conference process will be completed by Monday, that the House will take up the final measure by Tuesday, and that by Tuesday or Wednesday the bill will be back in the Senate for final action, and then be on its way to the President.

This measure, S. 2913, includes a full spectrum of benefits—modifications and improvements to veterans' employment and education programs, the full 7.4 percent cost-of-living increase for service-connected disabled veterans, their dependents and survivors—all the issues with regard to veterans are there.

Mr. BAKER. Mr. President, I thank the Senator.

I think the minority leader is speaking of H.R. 6794, Calendar No. 834, is that correct?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. My calendar shows that S. 2913 is cleared for action by unanimous consent. I think we can really dispose of that which includes provisions of H.R. 6794 in it without any further trouble. I would like to check with the chairman of the Committee on Veterans' Affairs to make sure this calendar notation conforms with his understanding.

Mr. SIMPSON. Mr. President, that is exactly correct. The House bill we intend to amend today is H.R. 6782, which has been held at the desk. S. 2913 contains provisions from both H.R. 6782 and H.R. 6794.

Mr. BAKER. Mr. President, it always gives me pleasure to do this: I can tell the minority leader that I am pleased to proceed on that item.

If the minority leader will permit me, I would like to confer now with responsible Members on my side and see if we can find a measure and a time when we can get a vote on it in relation to the other two bills if we can get a time limitation on them. Do I understand the minority leader to indicate that possibility?

Mr. ROBERT C. BYRD. Yes, Mr. President. Let me state once again, if the majority leader will yield, the debt limit must be disposed of, as the majority leader has said. I have a feeling he will need some votes on this side of the aisle to pass that measure. I want to help him get some votes.

I heard a Senator laugh. I want to help the majority leader get some votes.

Mr. BAKER. If the minority leader will yield, I am sure the Senator was not laughing at the minority leader, but at my plight, instead, because he understands that to be absolutely true.

Mr. ROBERT C. BYRD. I thank the majority leader.

May I finish?

It would be more helpful to us and to me to assist in getting those votes if we could get some assurance that we will get a vote on S. 2904 one day in relation to that measure and a vote in relation to Senate Joint Resolution 245, which deals with the jobs training bill.

We are going to have some real problems concerning unemployment compensation before long in many of the States and the legislation that is on the calendar would rectify those problems. I certainly understand the distinguished majority leader's need to take this matter under consideration first with his colleagues and others, and that is satisfactory with me at this point.

Mr. BAKER. Mr. President, I promised the Senator from Colorado I would yield to him next and then to the Senator from Ohio.

Mr. ARMSTRONG. Mr. President, I am grateful to the majority leader for yielding. I want to express concerns that, in a sense, parallel those that have been expressed so eloquently by the minority leader.

I am concerned about the tradition which has been discussed, that if this bill comes back from the committee, having been recommitted with instructions, somehow, Senators would be violating an unwritten rule of the Senate if they offer amendments. I happen to be a Senator who intends to offer amendments. I have been patiently waiting for 5 weeks to do so.

In the case of one of the amendments, I have spoken to the majority leader much longer than 5 weeks ago. It is an amendment which is germane to the purpose and intent of the debt ceiling bill. If it is not offered here, it would have to be offered on some bill that is not as pertinent or germane. I am hopeful that we could have some understanding that, whatever the outcome of this motion to recommit may be, it would be within the understanding of Senators that amendments would be offered and considered.

For my part, there are two amendments on this bill in which I have an interest. I think neither is extraordinarily controversial. I would be personally willing to agree to a very short time agreement on either or both of them. My purpose is not in any sense to delay reaching a decision on this matter. I would even be willing to suggest a time agreement of a very short duration because I think they do not involve issues which require extensive debate.

Unless the majority leader cares to comment on that, I have one other concern which seems appropriate at this moment. That is the notion that, at some point, we must pass the bill as it came from the House. I hope Senators would not too readily agree to that idea. The Senate Committee on Finance has considered this measure and has recommended certain changes in it. But over and over again, on this measure and on appropriations bill, this body has been told that we must conform ultimately, after weeks of debate, after many speeches, after a lot of declarations, after a lot of smoke and gunfire, that ultimately, we have to do what the House has already done. The leadership of the House has very skillfully played upon this notion and has repeatedly sent us measures of very great import at the last minute, sometimes even sending them to us at the last minute and then going into adjournment or recess, putting us in a very difficult position.

In the case of the extension of the debt ceiling bill, they have not even voted on this matter as a separate issue. It was simply referred under that new process they adopted a couple of years ago, in which the clerk is instructed to send a bill automatically. For us to then get into the habit of simply approving what they send does not seem to me to be wise or responsible. We all know we have to reach a decision about this, but I do not think we ought to prejudge what the situation is.

I, for one, think some of the amendments proposed by the Finance Committee in its deliberation on this bill ought to be adopted. In any case, I do not think we ought to accept the idea that the House can just send us a bill and we have to go with it no matter what. I hope others might agree.

Mr. METZENBAUM. With the permission of the majority leader, Mr. President, I would like to inquire of the Senator what his amendments are?

Mr. ARMSTRONG. I am happy to respond, Mr. President. Both of them have been the subject of "Dear Colleague" letters. One amendment I have in mind, which I believe to be directly germane to the purpose of the bill, is an amendment which the Senator from Louisiana and I expect to offer having to do with the rescission powers of the President.

The other amendment is a sense-of-the-Senate resolution calling upon the Department of State to investigate and quantify the widespread reports of the use of slave labor by the Soviet Union in the construction of the Yamal Trans-Siberia Pipeline and other projects. If it is the majority leader's desire that I not offer a sense-of-the-Senate resolution on this bill, I could offer it on another. There is no requirement that it be offered in any particular place. I am just eager to bring that issue to a vote at some time, and I do not think that would occupy much of the time of the Senate for debate.

Mr. BAKER. Mr. President, I do not think the Senator from Louisiana meant, and certainly I did not mean to imply, that there is anything wrong with Senators offering amendments. I think what the Senator from Louisiana said, and I agree with him, is that it has been a recognized technique in the Senate for the leadership on both sides to use this exercise when it is necessary to get the bill in shape so we can move it along and pass it.

I think that is the tradition, but it is certainly not inappropriate, nor against the rules and precedent of the Senate, to offer amendments if the Senator wishes.

Mr. President, on the matter of whether they should be offered to this bill or not, that is a decision that really addresses itself to the Senator from Colorado. I do feel, that at some point, we have to get on with this bill. It is my strong preference that we pass it simple and unencumbered because I am advised by Members on our side in the House of Representatives that they would find it very difficult to deal with this measure standing alone. There is no secret about that; otherwise, I suspect they would not have adopted the rather unique procedure they have of dealing with the debt limit as part of the budget resolution, but that is another matter for another time.

Mr. ARMSTRONG. Will the Senator elaborate on the question of the position the Senate finds itself in when the other body sends us, as they have so often, measures very late and then takes the position that if we change them in any way, they simply will not pass? They have done that with the continuing resolution, they do it with appropriations, they do it routinely with the debt ceiling. It seems to me that the Senate runs the risk of becoming the junior partner in this process simply because we are less intransigent than the other body, and I am concerned about that.

Mr. BAKER. I would have a hard time proving to anybody that we were the less intransigent of the two bodies. Mr. President, I must say that while the House does that to us sometimes, they did not do it to us this time. We have had this bill here since we had the first budget resolution, which is a long time.

Mr. TSONGAS. Will the Senator yield?

Mr. BAKER. Let me yield first to the Senator from Ohio and then to the Senator from Massachusetts.

Mr. METZENBAUM. Mr. President, I say to the majority leader that I very strongly subscribe to the comments

made by the minority leader with reference to the emergency nature of the matter concerning unemployment benefits. In all fairness, the chairman of the Finance Committee made a real effort to resolve that problem, but the facts are that in excess of 30 States are going to trigger off their unemployment benefits probably during the period that we are in recess. I hope that we will be able to address ourselves to that issue and to correct what otherwise would be a great inequity.

With respect to another matter in connection with the subject of disability benefits, there is a crying need to solve that problem. I anticipated pressing to bring that up as an amendment to the debt ceiling bill, but in this instance the chairman of the Finance Committee has indicated his intention to attempt to move it. At least I understand that to be his intent on the subject. If so, there would be no need to do that. Absent that attempt, I certainly hope at least to put the subject on the agenda, and whether or not I could make any meaningful move is difficult to say at this time. But if the chairman of the Finance Committee would not see fit to move, then I would want to reserve my right on that point.

Mr. BAKER. Mr. President, I yield to the Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I address my remarks to the Senator from Colorado.

There are a number of amendments that I have to this bill, and I recognize the need to get this matter dispensed with. I am inclined to let most of those go by the board. If we are going to entertain amendments on slave labor in the Soviet Union, I have a number of amendments more relevant than that. I say that if we cannot achieve some discipline around here, everyone else is going to be compelled to engage in the same kind of practice.

Mr. BAKER. Mr. President, I yield to the Senator from Colorado so that he can reply.

Mr. ARMSTRONG. I thank the majority leader.

Perhaps the Senator from Massachusetts did not hear my observation that if it was the desire of the majority leader, I would be happy to withhold the sense of the Senate resolution, which the Senator has just referred to, and offer it at another time. It is in order, it is my understanding, on any bill. I have been waiting for 5 weeks to find a parliamentary moment at which I could offer it. We have literally been in that kind of condition. I think it is a matter of some urgency, but I share the Senator's disposition that it may be the time to restrict this legislation to those items which are directly pertinent to the purpose of the debt ceiling bill.

My other amendment, I would point out to the Senator, is such an amendment. It is an amendment which has been under development specifically to be offered to the debt ceiling bill and really would not be very sensible or logical attached to some other bill, even though it might be feasible in a parliamentary sense to do it. But certainly if it is the desire of the leaders on both sides to minimize the number of amendments, I will be happy to withhold mine and offer at least the one at another time.

Mr. BAKER. Mr. President, I yield to the Senator from Illinois.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator from Illinois is recognized.

Mr. PERCY. I appreciate the majority leader's yielding for a question particularly while the distinguished chairman of the Finance Committee is on the floor.

Mr. BAKER. Mr. President, may I yield the floor so that the Senator from Kansas can seek the floor in his right since he is chairman of the committee and would be in a better position to answer the questions of the Senator from Illinois.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. I yield to the Senator from Illinois.

Mr. PERCY. I say to the majority leader, may I put the quick question to him, because I do believe we ought to have this debt limit bill out of the way as fast as we possibly can.

There could be no bill more germane to reducing the public debt than debt collection. We have been waiting since July 17 when the debt collection bill was reported out of the Governmental Affairs Committee and reported out of the Finance Committee on December 3.

My question is simply this, particularly in view of the fact that the President said yesterday that he is going to "chart a 6-year campaign to make the bureaucracy run more like a private business," and Joe Wright, Deputy Director of OMB, said, "The Government is bogged down with a morass of systems that are frequently incompatible, redundant, or obsolete." We do not have to wait 6 years. We are losing millions of dollars every single day. If we can get a time limitation of 1 hour after the debt limit is cleared—and I certainly will not offer it as an amendment to this bill—can we get assurance that we can take care of that bill before we go out on recess?

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. If the Senator from Kansas will yield to me, let me say that it is a good bill that the Senator from Illinois speaks of and, yes, I do support it and will make every effort to schedule it, but I hope he will not offer it on the debt limit.

Mr. PERCY. I have said that I will not offer it on the debt limit bill.

Mr. BAKER. It may be that we have created a situation where we pass two bills every year, one of them is a reconciliation bill and the other is a debt limit bill and that everything goes on it. I do not think that is what the Senate intends to happen, but the whole legislative agenda is sort of being wrapped up in those two bills. If that is the way it is, that is the way it is. But all I can deal with at the moment is this measure.

I am going to yield the floor once again—and I thank the Senator from Kansas for permitting me to speak at this point—while I go see where we go next. As the old saying goes in Tennessee, "It may be that you can't get there from here," but I am going to try.

Mr. DOLE. Mr. President, I share the view expressed by the Senator from Illinois, and I would certainly be willing to help work out a time agreement. We can do it in 5 minutes. We do not need an hour, but we would like an hour if necessary.

Now, do I understand there are a number of amendments pending to the debt ceiling bill now?

The PRESIDING OFFICER. There is a motion to recommit and four underlying amendments.

Mr. DOLE. I assume that, but if that fails would there be amendments pending?

The PRESIDING OFFICER. If the motion to recommit fails, then those four amendments that the Chair spoke to are pending and will be dealt with.

Mr. DOLE. As I understand it, there are also 1,470 printed amendments pending?

The PRESIDING OFFICER. The Senator from Kansas is correct.

Mr. DOLE. Would it be appropriate to consider all of those en bloc?

The PRESIDING OFFICER. By unanimous consent only.

Mr. DOLE. I will not ask it now, but I might just indicate to my colleagues that that might be one way to get home by Christmas; we just bring them up en bloc and accept them en bloc, take all of them and then strip them all and pass the debt ceiling bill. We would get a lot more sleep that way, it seems to the Senator from Kansas, than arguing about all these amendments that are not going anywhere. Why not just get unanimous consent. If Senators want to look at them, they are on their desks. I cannot lift them myself. But there are a number of amendments that have a great deal of merit—there may be a number of amendments that have a great deal of merit. [Laughter.] So that nobody feels short-changed, why

not just accept all of them, put everything on the debt ceiling bill. It does come out of the Finance Committee, but I have not been on the floor for 5 weeks; it did not seem necessary. But now we are getting back to matters that may be germane, which is sometimes refreshing.

So, that might be a way out: To take all of them, accept them all, and then strip them all, and everybody can write home and say, "They have accepted my amendment, but because of some procedural thing, they took it off." [Laughter.] It would make great copy for a newsletter. They might even put a photograph in the bill itself. [Laughter.]

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

Mr. DOLE. I yield.

Mr. ARMSTRONG. I think the chairman makes a good point. But I believe he will also acknowledge that a distinction must be drawn between those amendments which are clearly nongermane and those which really do relate to the essence of the bill. I am sure that in critiquing the general procedure by which we are considering this bill, he did not intend to suggest that it was improper to offer amendments which do relate to the purpose of the bill.

Mr. DOLE. Oh, no.

Mr. ARMSTRONG. As to the question of the 5 weeks we have devoted to amendments which are not germane—both of which are amendments I supported and continue to support—I do not think that, even in the first instance, it was the desire of the movers of those amendments to put them on the debt limit bill. I may approach the majority leader another time—since he is not on the floor—but his concern that we are going to end up with a two-bill session, I think, has some validity. But that was not the choosing of even the movers of the amendments. That was the way it worked out. Perhaps it was a poor decision to make the debt limit the vehicle for these two issues.

It does not seem to me that that should prejudice the reasonable consideration of amendments which are germane. I am perfectly willing to agree to a very short time agreement on the amendments I wish to offer. I do not think I am going to vote for the debt ceiling bill, anyway. It will depend in part on whether or not some amendments which contain financial reform are contained in the bill.

I just wanted to clarify that more than one kind of amendment is pending.

Mr. DOLE. I do not quarrel with that. I have not had time to review all the amendments pending. Certainly, some clearly are germane, and some are offered because there was no other vehicle. I do not even quarrel with that. It is the dollar amount in the debt ceiling. It is the date of September 30. Maybe we can change the calendar, and we will not have to face up to the debt ceiling.

It seems to me, however, that we need to do something. We still have tomorrow and until next Thursday. I am just trying to help the majority leader and others expedite the consideration of this matter.

If we strip the debt ceiling bill now of whatever may be pending and then come back and load it up again and strip it again, it seems to me there may be one way to avoid some of that procedure, and maybe that can be resolved; and those who have legitimate amendments—I do not suggest that there are any which are illegitimate—could offer them.

I do not think we are under the gun as to what the House may do, but there are a lot of Members of the House who never vote for increasing the debt ceiling. They may vote for a lot of spending, but they never vote to increase the debt ceiling. They may vote for a lot of spending, but they never vote to increase the debt ceiling. That is why they adopted this budget procedure.

I have discussed this matter with the Speaker of the House, with the ranking Republican on the Ways and Means Committee, with the chairman of the Ways and Means Committee, and with the minority leader, Representative MICHEL, because I have an amendment on the debt ceiling. I think it is a good amendment. It would reduce the holding period from 12 months to 6 months. It should be on that bill. It was in the tax bill.

The Senator from Colorado and the Senator from Louisiana have a good amendment. They make the temporary ceiling permanent, and it should be in the law. But let us face it: There are some realities that are going to be cropping up in the next few days, and one is that they cannot pass a debt ceiling in the House of Representatives. Every Member of the House is running for reelection.

It seems to me that if the leadership—the Speaker and the ranking Republican and the chairman of the Ways and Means Committee and the ranking Republican—say there is no way we can pass the debt ceiling, maybe that should not deter the Senate, and I am willing to try to send it over there; but, knowing the realities in the House, at this point we should accept those realities.

In this instance, it is not that we have just received the bill. We have had it for months. I happened to be on the losing side of both issues that have been debated, but I should like to expedite consideration.

We still have a subchapter S bill in our committee which we would like to pass. We still have a technical corrections measure to report from the Finance Committee, and that is important to a lot of taxpayers.

In my view, if we can consider the debt collection bill discussed by Senator PERCY and some other bills that should be addressed in the Senate in the last 6 days of this session, we should try to accomplish that. The Senator from Kansas is willing to do almost anything.

Mr. President, unless someone else wants to be heard at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I had thought earlier, as I have said any number of times, that when we reach this point we will be prepared to clean up this joint resolution and pass it without further amendment.

I also indicated earlier that that is contrary to the representations I made earlier to a number of Senators that they could use this joint resolution as a vehicle to carry their amendments on other matters. They have that right. I made that commitment. It is clear to me now that they want to exercise that right. I am not going to try to do anything to stop them.

Therefore, I intend to go forward with the motion to recommit.

I will tell the Senator from West Virginia, as I have earlier, that he has every right to offer amendments that he suggested, and I wish to get a time agreement on them. We will just have to vote them up or down as the time comes, and I am sure he understands that the time agreement should be only in relation to those items. But I can assure him that I will not try to take this joint resolution down. We are going to just work our way through it as we originally planned. If he can give me time agreements that will be very helpful.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Let me make it perfectly clear for the record that I was not insisting that we offer these amendments to this joint resolution. I was only wanting to see if I could get assurances from the majority leader that we would have an opportunity before we go out hopefully on October 1 to deal with these two items which remain separately. I do not particularly wish to hold up this joint resolution, and I only wish to make it indubitably clear that was not my intent to attempt to hold up this

joint resolution. I was just seeking assurances that we have an opportunity, aside from this joint resolution, hopefully to press these issues and get a vote on them.

The distinguished majority leader has to do what he has to do. If he cannot give those assurances I will understand.

Mr. BAKER. Mr. President, I thank the Senator. I can assure the Senator that I will make no effort to prevent him from doing that as an amendment to some other measure. I cannot, as I think he knows, give him an agreement to bring these measures up as freestanding measures for the Senate. He and I discussed that at length. But he has a right to offer these amendments as amendments to some other bill that will qualify.

I understand that the jobs bill was a part of an urgent supplemental appropriations bill in the House of Representatives. So any of the appropriations measures I think could carry such an amendment.

On the unemployment I assume that that also was not an appropriation bill, but I am sure we can find some vehicle for the Senator to do this.

The Senator has that right. I do not have to do anything to create it, as he knows, and I can give him the assurance that I will do nothing to stop it because any Senator is entitled to offer any amendment that qualifies under the rules of the Senate, and I expect his would.

So with that I hope the Senator can support this motion to recommit.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. I will support this motion to recommit. The assurances the distinguished majority leader has given are not the assurances I hoped to get, but I can understand the majority leader's position. He has given assurances as far as he can give assurances, and I understand we will have opportunities to call up the amendments, and the effort will be made, and the majority leader understands that that will be made.

I cannot assure that some Senators may not wish to try to offer amendments on the clean bill when it comes back.

Mr. BAKER. I understand.

Mr. ROBERT C. BYRD. But while I am not totally satisfied I am happy with the distinguished majority leader's response. At least he has considered it, and after talking with his colleagues he has stated what the situation is, and I respect that.

Mr. BAKER. I thank the Senator.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to recommit House Joint Resolution 520 to the Committee on Finance with instructions to report the joint resolution back forthwith.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Connecticut (Mr. WEICKER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

On this vote, the Senator from New York (Mr. MOYNIHAN) is paired with the Senator from Tennessee (Mr. SASSER).

If present and voting, the Senator from New York would vote "yea" and the Senator from Tennessee would vote "nay".

I further announce that, if present and voting, the Senator from Connecticut (Mr. DODD) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 16, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—79

Andrews	Goldwater	Mitchell
Baker	Gorton	Murkowski
Baucus	Hart	Nickles
Biden	Hatch	Nunn
Boren	Hatfield	Packwood
Boschwitz	Hawkins	Pell
Bradley	Hayakawa	Percy
Brady	Heinz	Proxmire
Bumpers	Hollings	Pryor
Burdick	Huddleston	Quayle
Byrd, Robert C.	Humphrey	Randolph
Chafee	Inouye	Riegle
Chiles	Jackson	Rudman
Cochran	Johnston	Sarbanes
Cohen	Kassebaum	Schmitt
Cranston	Kasten	Simpson
D'Amato	Kennedy	Specter
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Stevens
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Wallop
Exon	Mattingly	Warner
Garn	McClure	
Glenn	Metzenbaum	

NAYS—16

Abdnor	Denton	Jepsen
Armstrong	East	Pressler
Bentsen	Ford	Roth
Byrd, Harry F., Jr.	Grassley	Symms
Cannon	Heflin	Zorinsky
	Helms	

NOT VOTING—5

Dodd	Moynihan	Weicker
Melcher	Sasser	

So the motion to recommit was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senate Finance Committee reports House Joint Resolution 520 to the Senate for its consideration.

The PRESIDING OFFICER. The joint resolution is before the Senate.

● Mr. GRASSLEY. Mr. President, the success of the majority leader's motion to recommit has brought to an end the Senate's lengthy consideration of the Helms proposals on school prayer and abortion. I am sad that a minority of this body has chosen to use the rules to prevent a direct vote on the passage of these proposals. But I raise not out of sorrow but appreciation, appreciation for the leadership that the Senator from North Carolina has shown on this issue.

The position of leadership is often a lonely place to be, and that was particularly true in this fight. Senator HELMS has shown exemplary courage in sticking to his principles and fighting for two issues that are very important to many millions of Americans.

His courage has earned him the distinction of being attacked by unnamed sources in numerous press accounts recently. He has been criticized as being ineffective in not having broken the filibuster against his amendments. While it is true that the cloture motions did not garner the necessary three-fifths vote, in the majority of the votes Senator HELMS gathered the support of a majority of his colleagues.

I cannot believe that anyone who knows the workings of Washington would call a Senator who repeatedly garners a majority of favorable votes on two emotional and controversial issues anything but effective.

The Senator from North Carolina certainly is one of the most effective Members of this body. If we were not effective, his enemies would not be wasting their breath on these anonymous attacks.

Although in the final analysis the filibusters were not broken and the proposals are not law, Senator HELMS deserves the thanks of all Americans concerned with the Court determinations on school prayer and abortion for his leadership and courage.●

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 2016

(Purpose: To amend the Agricultural Act of 1949 to modify the price support program for the 1982 through 1985 crops of sugar)

Mr. QUAYLE. Mr. President, I call up printed amendment No. 2016.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE), for himself, Mr. TSONGAS, Mr. ROTH, Mr. PROXMIRE, Mr. CHAFEE, Mr. SPECTER, Mr. GORTON, Mr. PELL, Mr. HEINZ, Mr. STAFFORD, and Mr. MATTINGLY, purposes amendment numbered 2016.

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

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

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . Paragraph (2) of section 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446(h)(2)) is amended to read as follows:

"(2) The Secretary shall support the 1982 crop of domestically grown sugarcane through nonrecourse loans at 14 cents per pound for raw sugarcane.

"(3)(A) Effective October 1, 1983, the Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 14 cents per pound for raw cane sugar.

"(B) Notwithstanding subparagraph (A), the Secretary shall support the price of domestically grown sugarcane at a level not less than 17.5 cents per pound for raw cane sugar for the 1983 crop, at not less than 17.75 cents per pound for the 1984 crop, and at not less than 18 cents per pound for the 1985 crop, if the Secretary finds that by the exercise of his full authority to impose duties and import fees such support level for such crop would not likely result in the acquisition of significant quantities of sugar by the Commodity Credit Corporation.

"(4) Effective October 1, 1982, the Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

"(5) The Secretary shall announce the loan rate to be applicable during any fiscal year as far in advance of the beginning of that fiscal year as practicable consistent with the purposes of this subsection. Loans during any such fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature before the end of that fiscal year.".

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Has the bill been reported back by the Finance Committee and is the Senator from Kansas offering an amendment?

Mr. DOLE. The Senator from Kansas did not offer an amendment.

Mr. BUMPERS. The Senator from Indiana. And we are on an amendment now to the debt ceiling bill?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, as many in this Chamber know, it has been my desire and the desire of the Senator from Massachusetts (Mr. TSONGAS) to bring to the Senate a discussion on the sugar program for a considerable length of time. As a matter of fact, Mr. President—Mr. President, can we have some order? I have a great speech I want to give and I want everybody to hear it. Mr. President, can we have order? I am sure the Senators want to hear this speech.

The PRESIDING OFFICER. The Senator from Indiana is correct. The Senate will be in order.

The Senator from Indiana has the right to be heard. The Chair will request Members of the Senate to be in order.

The Senator from Indiana.

Mr. QUAYLE. Mr. President, we have attempted to bring before the Senate, Senator, TSONGAS, myself, and others who are cosponsoring this amendment, a discussion on the sugar program throughout this whole summer. As a matter of fact, I entered into a discussion on the floor publicly with the majority leader as early as the latter part of June. I have talked with him privately and throughout the whole duration of the debate on this debt limit bill, which has lasted for a long, long time. We have all been promised an opportunity to get these amendments before the Senate.

I know that one of the arguments that will be waged against this amendment will not be on substance, it will not be on the merits of whether we ought to moderately reform the sugar program by reducing its price support 3 cents, which will save the consumers of America millions of dollars, but it will be argued that this is not the right time or the right place to have this amendment.

Mr. President, I suppose that the right-time-right-place argument can be waged against this amendment and every other amendment. But I hope that this body will now move forward, since we are off the amendments which have hung us up for a period of about 5 weeks, and take a serious look at not only my amendment but other amendments that will be offered on this debt limit bill.

A lot of people have been very patient and cooperative throughout the debate on the debt limit. We have been told time and time and time again that this is going to be the vehicle to have amendments. So let us have at it. We will have a good discussion. I am willing to accommodate the majority leader and the minority leader. I am sure that the Senator from Massachusetts (Mr. TSONGAS) would likewise be willing to accommodate them in any kind of a time agreement that the Senator from Kansas might want to work out so that the Senate can vote on this measure after a discussion and then go on to other amendments so that other Senators can be heard.

Mr. President, today, as I said, the distinguished Senator from Massachusetts (Mr. TSONGAS), who has worked exceedingly hard with me on this amendment, and I are offering this amendment that reduces the level of the Federal price supports for domestic sugar. Joining us as cosponsors of this amendment are Senators ROTH, PROXMIRE, PELL, HEINZ, CHAFEE, SPECTER, GORTON, MATTINGLY, and STAFFORD.

The sugar program, in my opinion, is a program that has become an embarrassment to this administration and to this Congress. I do not believe that the President really wanted to impose quotas, which he did on May 5, 1982.

I would like to just take this time to read to the Senate part of the President's statement when he signed the proclamation imposing import quotas on sugar. I will quote the President:

I personally regret the necessity for signing these proclamations.

I will read that again:

I personally regret the necessity for signing these proclamations.

He goes on:

The sugar program, enacted by Congress to protect high cost domestic producers, will result in higher costs for all American sugar consumers.

That is the President's statement when he signed the proclamation imposing import quotas on sugar. That statement is characteristic of what this amendment is all about.

This amendment will reduce the 1982 price support program for sugar by 3 cents, from 17 cents to 14 cents, at a level which we think would be achievable to not have the imports that we presently have and the policy that the President of the United States said that he was reluctant and regretted to have to sign.

Mr. President, last fall, a number of us in this body said that the price support level for sugar was too high, that it was so high that the U.S. Government would be forced to buy sugar. Now we find out that we have not been forced to buy sugar. We have only avoided this by restricting imports of sugar, so much that the domestic prices for sugar have risen by 50 percent since the passage of the farm bill. So, like many of the actions that the Federal Government takes, there is a certain sleight of hand involved in this decision. Instead of having the Government use tax money to support the price of sugar, which we would have to do through forfeitures, we simply shifted the cost from taxpayers to consumers, who are also taxpayers, I might add. We did avoid widening the Federal debt, but American consumers have to pay the heavy price of the support program.

Support for sugar growers does not come cheaply. This year, the sugar program will cost consumers an average of $215,000 for each and every sugar grower. By contrast, the wheat and feed grain programs cost roughly $475 and $996 per grower. As a matter of fact, even the dairy price supports cost only $11,250 per farmer, which is less than 4 percent of the level for the sugar support.

Mr. President, what is the philosophical justification for this pro-

gram? Is it the policy of the U.S. Government to place a protective umbrella around each and every industry regardless of the cost? Do we have some competitive advantage over other nations in the growing of sugar? Is there a national security interest in trying to guarantee the viability of the domestic sugar industry?

(Mr. CHAFEE assumed the chair.)

Mr. QUAYLE. I submit that the answer to each of these questions is clearly in the negative. We cannot continue to try to protect all American interests against competition. In the case of sugar, we clearly have no comparative advantage over other sugar-growing nations. In fact, we are at a competitive disadvantage.

Finally, any talk of national security interests in the context of the sugar industry is certainly beyond the comprehension of this Senator. In fact, if we cannot find enough sugar in the Nation covered by the Monroe Doctrine to gratify our collective sweet tooth, we are in trouble. It is time that we end this age-old practice of coddling the sugar industry.

The program is out of line in terms of benefits it confers to only 13,000 sugar growers. It is entirely misguided as a precedent of our economic policy, and it has only negative impact on our foreign policy.

Let me briefly outline the cost consumers are paying for this program. For the 1981-82 crop year, Congress requires sugar to be supported at 16.75 cents per pound. To avoid direct cost to the Government, the USDA and the President are attempting to keep domestic prices above 20 cents per pound. Import duties and fees now in effect add about 4 cents per pound to world prices, and import quotas drive up prices another 10 cents, so the current world price, around 6 cents, is raised by about 14 cents per pound. The total sugar tax imposed on consumers amounts to about $4.2 billion on an annual basis, since each additional penny in sugar prices adds $300 million to the Nation's sugar bill.

Viewed from another angle, the sugar program is currently costing each man, woman, and child in this country about $15.50 per year. These additional costs may not seem overly burdensome, especially to those of us in Congress who sometimes hardly blink at dollar figures below billions. Nonetheless, I think we should reflect on the aggregate cost of this program to the U.S. economy. I imagine we could find better ways to spend the $4.2 billion.

The problem is, Mr. President, the fact that we have highly restrictive import quotas needed to protect sugar prices is causing some problems for the domestic sugar users. Over 40 percent of U.S. sugar is imported. Last year, we imported over 5 million tons of sugar. Quotas are expected to reduce this figure to 3 million tons this year and 2.8 in 1983. We have already seen some spot shortages of sugar that have caused refineries to shut down.

Additionally, since foreign refines of sugar may not be assured of supplies, they may be faced with the prospect of not making contracted deliveries to major users such as confectioners, bakers, soft drink bottlers, and food processors. Unreliable trading partners, as we have seen all too painfully in the aftermath of our grain and soybean export embargoes, tend to have great difficulties in regaining the markets or sources of supply. How often, Mr. President, have we heard a discussion about unreliable trading partners? We are becoming the unreliable trading partners. One day, we have quotas, the next day we do not. One day, we have embargoes, the next day we do not. Is our word going to be good?

For this program to protect 13,000 sugar growers at a cost to the consumer of about $4.2 billion is simply a bad program, make no mistake about it. Even the President, as he signed the proclamation to impose these quotas, said that he was reluctant and regretted doing so.

Mr. President, I do not need to point out to this Chamber all of the problems and the nuances that go to outright protectionism by this country for a small, sophisticated group of a few thousand producers and growers in this country. What this amendment is designed to do is make a temporary adjustment in the price support program during the current period of abnormally low sugar prices, to establish a loan rate of 14 cents a pound for the 1982-83 crop year only. This will enable the Secretary to administer the program without significant risk of budget outlays. The Secretary would be able to support the price through the use of import duties and fees and hopefully without import quotas. We estimate that a world price of only 9 cents per pound would be sufficient to allow the Secretary to achieve the market stabilization price of around 17 cents with duties and fees alone.

Mr. President, I know that this issue is not new to this Chamber. It is not new to the individual Senators who are interested in this matter. We have discussed the program before. Last year there were a couple of votes, one on the amendment offered by myself and the Senator from Massachusetts to eliminate the program entirely, to go to where we were in the late 1970's when we did not have a sugar program, and there was another amendment offered by the Senator from New Hampshire (Mr. HUMPHREY) that would have restored the 16.5 cents loan level.

Both of those amendments, unfortunately, were defeated. There was concern then that we would have forfeitures, but instead of forfeitures we have import quotas, which is obviously doing a significant amount of damage to the credibility of our own country.

Look at the Caribbean Basin Initiative. We are talking to those countries about the free enterprise system; that free markets and free trade are the ways to pull yourself up by your bootstraps. Then we turn right around to those countries on a commodity that they seem to have the advantage of producing on a competitive basis and say that we are only going to take a certain amount; we changed our mind once again.

We complain about subsidies; we complain about dumping; we say that they are illegal. We should be complaining about those issues loudly and clearly. I will not take a backseat to anybody who says that dumping is not illegal and we ought to respond and retaliate, whether it be through imposing countervailing duties, entering into voluntary arrangements, pursuing GATT, whatever the retaliation would be. There is no doubt that we should do that.

However, it is too much to impose, for the convenience of a few people in this country, a protective program that will cost the consumers billions and have severe damage on our foreign policy and our implementation of a new approach to friendships in our own hemisphere. I think it is time that we make a moderate change.

This is a moderate reform of the sugar program. After the 1982 crop, the Secretary for the 1983 crop shall, if he finds that he does not have to impose quotas, go back to the price support system adopted in the farm bill of 17.5 cents per pound in 1983-84 and 18 cents in 1985.

I am extremely concerned about the possible consequences of a rising spiral of trade restrictions on U.S. farmers. We stand to lose much more than we can hope to gain by engaging in a trade war in agricultural commodities. There are some who argue that the only way to convince our trading partners to remove barriers to trade with the United States is to get tough by shutting off our own markets. If this is true then our farmers are going to have to pay once again for our misdirected policies. One might look to the sugar program, which is supposed to help farmers, as a catalyst which triggered protectionist forces which will do irreparable harm to the U.S. farm economy. Mr. President, I hope we can avoid a trade war. I believe we should pursue all possible diplomatic avenues—including the established GATT adjudication procedures—to try to work out our trading differences before they escalate any further. But I caution that any attempt to negotiate these differences will be seriously im-

paired if we continue these import quotas on sugar.

Mr. President, those in the Congress who sponsored an even more generous sugar program than the one now in effect will tell us that the only reason for the program is the need to counteract "dumping" of sugar by the European Economic Community. They argue that the EEC price support program and the export subsidies which go along with it are solely responsible for the low sugar prices we have seen since last year. They will also evoke the tough-sounding and heady argument that we have to teach the Europeans a lesson and not let them get away with unfair trading practices. That is why, they argue, we need our own support program along with import quotas.

I would like to remind my colleagues that even if the EEC did not subsidize sugar to the extent it does, the world sugar program would sooner or later face the same difficult policy choices we are now confronting. The Europeans did not start producing exportable quantities of sugar until the late 1970's. Even a cursory glance at the history of sugar prices shows the basic cyclical nature of this phenomenon going back until early in the 20th century. In 1972 the average world price of sugar was 7.43 cents. By 1974 it was up to 29.9 cents, and then went back to 7.8 cents in 1977. In 1981 alone the price fluctuated between 11 and 28 cents per pound. Unfortunately, Mr. President, sugar prices are at the mercy of Mother Nature. Much as we might try to place the blame on some outside source, sugar prices depend on supply and demand. Blaming the Europeans alone will not rid us of the dangers of the sugar price support system. We have at our disposal import fees, countervailing duties, and other ways to combat unfair trade.

A much more responsible and less dangerous way to counter alleged unfair trading practices by the Europeans is to follow the well-established mechanisms of GATT to resolve our disputes. I admit that this method is laborious and sometimes frustrating, but I believe it is clearly in our interests to preserve the international trading order symbolized by GATT. It is in this context that we must exert pressure. If we take unilateral action and circumvent GATT, we will just invite the Europeans and others to do the same. I must again insist that opening up a trade war can only hurt the United States and everyone else involved.

Mr. President, it is time that we stop talking about the problems caused by our sugar program. It is time to mitigate the worst consequences of our unwise decision to set unnecessarily high sugar price supports. We simply cannot continue to protect industries which have no comparative economic advantage and little strategic importance.

In May Senator TSONGAS and I, along with 20 cosponsors, introduced a bill which would eliminate the sugar program altogether. I still believe this should be the long-term goal of our actions in Congress. However, I believe the process of reform should begin immediately. So Senator TSONGAS and I today are offering a plan to reduce the sugar price supports as a means of giving some relief to American consumers and exporters and to allow the possibility of improving our ties with our trading partners.

Our amendment is designed as a temporary and limited adjustment in the price-support program during the current period of abnormally low sugar prices. It would establish a loan rate of 14 cents per pound for the 1982-83 crop year only. This will enable the Secretary to administer the program without significant risk of budget outlays. The Secretary would be able to support the price through the use of import duties and fees and without import quotas.

We estimate that a world price of only 9 cents per pound would be sufficient to allow the Secretary to achieve the market stabilization price of around 17 cents with duties and fees alone. Let me insist that this is a realistic price assumption for world sugar. USDA has estimated that world prices will hover between 10 and 12 cents later this year and in 1983. We should also remember that world demand has been severely restricted by U.S. import quotas. Before the administration began to consider quotas, the world price was 9 to 10 cents. Reducing U.S. demand by 2 million or more tons per year has caused prices to drop by almost 25 percent. Our estimates indicate that restoration of U.S. demand, which takes about one-third or more of the sugar traded in international markets, would boost sugar prices back above 9 cents. Only another record sugar crop, which would require perfect growing weather in the four corners of the Earth, could reduce prices again to their present levels.

This reduction in the support level would reduce total consumer outlays for sweeteners by about $1 billion in the next fiscal year. Savings of the same magnitude would occur in each of the next 3 years if low world prices lead the Secretary to maintain the lower price support level allowed in the amendment.

For the 1983 through 1985-86 crop years, the Secretary would be required to set price supports at the levels mandated in the 1981 farm bill; he could avoid Government sugar purchases through the use of duties and fees. In the event that the market stabilization price cannot be obtained through duties and fees, the Secretary would have the option of reducing the price-support level, but not lower than 14 cents per pound. I fully expect the Secretary to utilize this authority to avoid the necessity of declaring restrictive import quotas on sugar.

Mr. President, I believe this amendment will allow us to avoid sugar import quotas in future years. This will get us out of the embarrassing and somewhat duplicitous position of asking our trading partners and allies to support open world trade while we close off our own markets. We will then be in a much stronger position to insist on the removal of restrictive trade barriers in Japan, Europe, and elsewhere which are doing such damage to American agriculture. Additionally, ending these counterproductive import quotas will allow us to move more aggressively to repair our ties with Latin America and work with our Latin American friends to promote economic stability in the region.

Mr. President, the amendment I am offering today would be a small step in these directions. Let us admit that we are at a critical juncture in world trading relations. Let us admit that we were too generous in supporting the domestic sugar industry. Let us admit that we can correct our mistakes and move toward a more reasonable program. I urge all of my colleagues to support this emergency amendment and to work with me in the future to avoid the types of problems we have experienced because of our generosity to the sugar industry.

Mr. TSONGAS. Will the Senator yield?

Mr. STAFFORD addressed the Chair.

Mr. QUAYLE. Mr. President, I yield to my distinguished cosponsor of this amendment, the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, this is not a new issue. We have all been down this road before, and having been through 3 weeks of debate ad nauseam on other issues, I hope that brevity would be the hallmark of the discussion on this one.

We have voted on this before, and it seems to me we need not go through it again.

Mr. President, I continue to submit that this Nation does not need a costly price-support program for sugar. I believe that the Senate does not need to indulge in special-interest politics and support a windfall program that benefits just 22 sugar processors and that could cost the Treasury $412 million.

Almost 1 year ago, when this body debated the Agriculture and Food Act of 1981, we argued that this Nation did not need a price-support program for sugar. The majority of our colleagues did not agree with us and, unfortunately, many of the concerns we ex-

pressed at the time were indeed well founded.

Being a realist, I know that we cannot hope to eliminate the existing program at this time. For that reason, Senator QUAYLE and I are offering this amendment to address some of the most immediate problems caused by the price-support program. Those problems include consumer price increases, inflation, restrictive import quotas, and deteriorating relations with the sugar-producing and sugar-exporting nations of the world.

This amendment is very simple, and it only temporary in effect. I consider it to be a fair and practical revision of an unreasonable support program. Effective October 1, 1982, through September 30, 1983, the loan rate for sugar would be 14 cents a pound. A processor could borrow against his sugar crop at that rate under a no-risk, nonrecourse program. He would be guaranteed a price that is twice the current world price per pound of sugar.

On October 1, 1983, the loan rate would return to the levels established by the Agriculture and Food Act of 1981. If it became apparent that the administration would again be forced to use import quotas to protect the domestic market, then the Secretary of Agriculture would have the discretion to reduce the loan rate to not less than 14 cents a pound. These provisions would be in effect through the 1985 crop year.

Since the establishment of the loan program, it has been virtually guaranteed that the American consumer would pay the price for this unnecessary subsidy. In July, the price of U.S. raw sugar averaged 22.15 cents per pound at coastal refineries. Last September the price was 14.48 cents. For every 1 cent sugar prices rise, consumers pay an additional $300 million in sweetner costs and about $190 million just for sugar.

It has been suggested that there is no difference in a bottle of Coke and a bottle of sugar-free Tab and that reducing the loan rate will not have an impact on the price of products containing sugar. I do not agree with this assertion. But in my case, millions of Americans do not purchase Coke or Tab. They buy Kool-Aid and a bag of sugar. Families that cannot afford the high price of cookies in the supermarket bake sugar cookies at home.

Indeed, Mr. President, we may not find all the products that contain sugar in every American home, but there are few homes that do not have a plain bag of sugar. Historically, the price of sugar in the supermarket has fluctuated with the price of raw sugar. Estimates indicate that our amendment will reduce the price of a 5-pound bag of sugar by 15 cents. Furthermore, even if the price of products containing sugar did not decline with the passage of this amendment, we can at least slow down inflationary increase in the cost. The reduction in the support rate will save consumers approximately $1 billion per year and, at 14 cents a pound, sugar producers are still guaranteed a price that is twice the world price of sugar. Furthermore, duties and fees could be used to maintain the market stabilization price without import quotas.

The world price of sugar was declining when we began our initial debate on this issue, and it has continued to decline. Adjustments were made in import fees in March and April of 1982 in an attempt to protect the Government from huge sugar purchases. But in May 1982, when the world price of sugar reached its lowest level in 4 years, it appeared that the Government might have to acquire 1 million tons of sugar. At that time the President signed a proclamation imposing quotas on sugar.

The administration established a country-by-country system of quotas. This has further disrupted and depressed the world sugar market. Not surprisingly, our trading partners have expressed concern regarding this protectionist action. In May, exporting members of the International Sugar Agreement issued a proclamation stating the U.S. import quotas and the sugar title provisions of the U.S. Agriculture and Food Act of 1981 are "inconsistent with objectives of the International Sugar Agreement." Many of our trading partners have noted the irony in the contradiction between our sugar policy and the free trade philosophy articulated by the United States.

Trade Representative Bill Brock warned that sugar import quotas would make it difficult to argue against trade barriers in Japan and in the European Economic Community. Japanese Foreign Minister Sakarauchi advised the United States that Japan has virtually ruled out any immediate removal of import quotas on agricultural products, and noted that Japan would be quick to "point out Washington's recent imposition of sugar import quotas to counter any pressure by the United States."

We have been criticized for failure to respect the Internatinal Sugar Agreement, and we have hurt nations that we wanted to help through the Caribbean Basin Initiative. The Dominican Republic, Brazil, Panama, and Jamaica are only a few of the nations that have been adversely affected by this policy. The Secretary General of the Organization of American States corresponded with President Reagan and predicted a profoundly negative impact on the smaller countries in the Caribbean Basin because of the U.S. imposition of quotas on sugar.

The United States has a $42 billion agricultural export trade. Imposition of sugar quotas is an affront to all who participate in this trade. It is even more offensive when you look at who the beneficiaries of the sugar program are. The domestic sugar industry is dominated by big companies such as Gulf & Western, the Hunt brothers' Great Western Sugar Co., and C. G. Smith, Ltd., part of a South African conglomerate. The cost of this $3 billion program for the benefit of fewer than 14,000 producers amounts to an incredible $215,000 per producer.

Mr. President, as I stated at the outset of this debate, I do not believe that we need price supports for the sugar industry, but since the majority of my colleagues did not agree with me last year, we have returned with a reasonable compromise. I would hope that the opponents to the original Quayle-Tsongas amendment would meet me halfway. If this amendment is not passed, consumers will continue to be saddled with excessively high prices for sweeteners. The import quotas will remain and our trade relations will continue to deteriorate. I urge my colleagues to support this amendment and eliminate the quotas that elevate the cost of sugar and sugar-containing products to the American consumer.

As the Senator from Indiana pointed out, this is a compromise amendment. Last year we tried to eliminate the program, and we were unsuccessful. There was all this talk about we did not know what we were talking about; that no money has ever been paid out; that there was no crisis, and so forth.

That, as we all know, turned out not to be the case, and there is such a crisis today in sugar that the administration felt compelled to introduce import quotas. We all know what the effect of that has been.

What we have done is not to seek to eliminate the program, although perhaps some of us may find that attractive. What we have tried to do is to find a middle ground between no program and a program that is excessive, and 14 cents a pound is where we have ended up.

From a consumer point of view, it could be well argued that 14 is too high, given the fact it is twice the current world price per pound of sugar. But we are trying to accommodate legitimate interests on the other side. I hope that in a spirit of compromise those who opposed us last time will see fit to join hands with us this time.

The next argument is simply that I think the time has come to again plead for some philosophical consistency.

I daresay the vast majority of the Members of this body have gone around their States arguing for less Government, get Government off our backs, let the marketplace prevail. Well, here is a chance, and we would like to give Senators an opportunity to

go back to their States and say, "I have matched my votes and my rhetoric."

Second, with respect to philosophical consistency, the Senate passed, as we all know, the balanced budget amendment. This bill is an attempt to suggest that a philosophical conservative should not only be supportive but should be enthusiastic about the approach that we have taken. It is rather inconsistent on one hand to vote for a balanced budget amendment and on the other hand vote to continue what I think is acknowledged to be an excessive support program. You cannot have it both ways.

I urge the 70 or so Members who voted for the balanced budget amendment to embrace this move in a very worthwhile direction.

The third point of the philosophical consistency is the issue of protectionism. There are many Members who represent States that have been hurt by unfair protectionism imposed by a number of countries, Japan being just one example.

Our Trade Representative has traveled around the world trying to get countries to reduce their nontariff barriers and their other methods of protectionism, and right in the middle of that journey the President turned around, because of the sugar situation, and imposed sugar import quotas.

How do you expect Bill Brock to travel to Europe and Japan to make the argument for less protectionism when we impose sugar import quotas? You cannot get there from here.

If one is serious, as I think we should be, about really cracking down on the Japanese for their abuses in the area of nontariff barriers and to work out with the Europeans reasonable approaches to these issues to deal with countries like Brazil that are very protectionist by instinct, it is simply unworkable to engage in this kind of a practice on our own with the particular impact coming from those countries which, as the Senator pointed out, the administration is trying to help with the Caribbean Basin Initiative.

The arguments in favor of this amendment are obvious. The arguments against the amendment basically stem from constituents, and I can understand and respect why Senators fight hard to protect them. I would do the same thing. Their activity to defeat this amendment is understandable and does represent the job of supporting one's constituents, but I hope that beyond that group there would be a rather unanimous feeling that it is time to be consistent with the desire to get Government off our backs, to lower the costs of Government, to try to achieve a balanced budget, and to suggest that protectionism is not the policy of this Nation. In those three areas I urge my colleagues to support the amendment.

I thank the Senator from Indiana for the time.

Mr. ANDREWS. Mr. President, I rise in opposition to this amendment.

When we considered and voted for the 4-year omnibus farm bill last year, we approved a price-support program for domestic sugar producers. We had extensive hearings on this provision. Numerous witnesses called attention to the fact that a preliminary report on the cost of production survey of the USDA shows the cost to be an average of some 25 cents a pound to produce sugar in the United States during the 1981-82 crop year, excluding land costs, of course. That would fall in line with what my colleagues said a moment ago about the fact that we should let the most efficient producers produce. After all, that is what free trade calls for. I am certainly in favor of free trade. But there is more to the story.

According to the same group of figures from the USDA and the best information we have at hand, the cost of production of sugar in other areas of the world is higher than it is in the United States. In fact, coming from an agricultural State, I am getting darn sick and tired of listening to a bunch of "hoorah" that comes out and says that our farmers somehow are not efficient, our farmers somehow are high-cost producers. That is the darnest bunch of gobbledygook anybody can ever engage in.

The farmers of this country, whether they are cane producers or beet producers, are the most proficient producers in the world, and they can compete with anybody in the world, and do. They have a tough time competing with other governments, but that is not a fair shake.

I think you have to take a look around the world, and the only place where the cost of production might be less for sugar than in the United States is in a couple of Caribbean countries.

I recall reading a story in the Washington Post not too long ago that explains why that is so. It is a cane country. We pay our cane cutters—and I assume that my good friend and colleague from Hawaii will point that out—$75 to $85 a day for the labor they do in the field. The article in the Washington Post pointed out that the sugar cane cutters in places like Haiti are paid $1.50 a day, and they are given the great luxury of being able to sleep free in the fields where they are cutting that cane.

Mr. President, I do not think those of us in the U.S. Senate want to subject the consumers of this country to this so-called slave-labor-produced cheap sugar. That is a bunch of garbage, and it does not make sense at all.

Let me point out what the facts are. In the case of the European producer of sugar, that sugar is now being dumped because they overproduced by 10 to 15 percent in the world market. Little, if any, comes into this country, because we get it from other areas. But that distress sugar establishes the price of the world sugar.

● Mr. WALLOP. Mr. President, today I rise in opposition to the amendment offered by Senators QUAYLE and TSONGAS to reduce the sugar price support levels from the agreed upon 17 cents-per-pound level for the 1982 crop year, to what would be a devastating price of 14 cents on October 1, 1982. Their amendment aims to reduce price supports for the 1982 crop year only, and would give the Secretary limited discretion to set levels during the 1983 and succeeding crop years.

I thought the Senators from Indiana and Massachusetts would have heard and accepted the unmistakable death knell when two attempts to decrease sugar support levels were soundly defeated during consideration of the 1981 farm bill last September. I voted against those moves then, and will again join my other colleagues from sugarcane and sugar beet producing States to hammer home the final stake into the heart of this resurrected attempt today.

My State, Wyoming, ranks eighth in American sugar beet production, and back home, there are about 560 sugar beet growers who are depending on that 17 cents support level to make ends meet in 1982—to feed their families, pay their mortgages, and maybe, just maybe, put a little away.

These sugar beet farmers work hard and provide a sizable contribution to my State's economy and well-being. About $40 million of Wyoming's $650 million in agricultural cash receipts during 1980 came from sugar beets. There is another thing about Wyoming sugar beet farmers I am very proud of. Although Wyoming ranks second from the bottom out of 14 sugar beet producing States in total number of acres harvested, we have the third highest yield per acre at about 21 tons. I cannot, and will not, stand to see the livelihoods of Wyoming's sugar beet farmers damaged, along with the fiscal soundness of my State's agricultural economy, as a result of this amendment.

My constituents are depending on 17 cents per pound because this congress set that level when it finally passed the farm bill conference report in December 1981. Even so, I have read some reports estimating that 17 cents only covers about 63 to 68 percent of the cost of production. It is grotesque that this amendment comes up now when 1982 sugar beet crops are well on the way to harvest. Would the Senator from Indiana do that to his farmers?

Mind you, I am no rabid supporter of price supports, but it is unconscionable, given the struggles of all American agriculture, to single out and lower the income of sugar beet farmers after their crops have been planted.

Senators QUAYLE and TSONGAS have argued that by reducing sugar price support levels we will improve our status with our foreign trading partners as well as save American consumers more money while indulging their sweet tooths. Those consumers have been seduced before by political promises expediently given, only to find themselves dependent on unreliable foreign sources of supply. Today is no exception.

Moreover, quotas on imported sugar appear to be beneficial to both exporting countries and American farmers. And, quotas for sugar are not unique since quotas already exist on cotton, peanuts, some dairy products, and beef. Other products have import limits such as steel, chemicals, textiles, and automobiles. Government representatives from countries which will benefit from the administration's Caribbean Basin Initiative, such as the Dominican Republic, have publicly testified in favor of recommended sugar quotas.

Now let us look at America's sugar habit and see how much benefit the consumer reaps from lower sugar prices. While March 1982 sugar prices averaged 17.13 cents—down 43 percent from the high of 30.11 cents in 1980—the price of 17 major sugar-containing foods and beverages rose 15.4 percent during the same period. It is difficult to substantiate, from these figures, that declining sugar prices benefit consumers, but it is not hard to see how profits flow to corporate accounts at the expense of sugar beet and sugarcane growers.

If Senators QUAYLE and TSONGAS are successful today, which American farmers will suffer next from a fickle Congress? Wheat, corn, or peanut farmers perhaps? For the sake of American sugar beet producers, sugar consumers, and the state of American agriculture, I urge my colleagues to roll this amendment back as we have in the past and remain, for once, faithful to the farmers who can only stay home and plant on the basis of what they think we have promised. Let them at least in hard times reap a harvest of trust.●

Mr. SIMPSON. Mr. President, I appreciate this opportunity to succinctly record my opposition to the Quayle-Tsongas amendment (No. 2016) to reduce the support price under the domestic sugar stabilization program. I believe the current sugar program is not only in the best interest of sugar producers, but it is in the Nation's best interest.

This country has an extraordinary sweet tooth—we consume more than we produce. We are then compelled to import the remainder of our Nation's needs from the so-called world market. But that market is relatively small—currently about 18 percent of world supply—and the overproduction of sugar-producing nations is then dumped at whatever price it can bring. This world market is not, by any stretch of the imagination, a stable market. During the years that this country was without a domestic sugar program, consumers were subjected to sharp price fluctuations. The world price went from 9.3 cents per pound in 1973 to 64.5 cents in 1974, then down to 14.2 cents in 1975, back up to 44.2 cents in 1980, and then plummeted to less than 8 cents this summer.

The true dividend for the American consumer comes in those years of short world supply. During those periods, if there were no sugar industry in the United States, Americans would pay substantially higher prices, if there were any supplies available at all. Indeed, some have estimated there would be no world surplus (and thus cheap prices) this year if there had been no U.S. production.

The simple fact is that U.S. production cannot exist without a nearby processing mill. And, since 1975, some 30 sugar mills and refineries have closed down and an additional 4 are scheduled for closing this fall. When a mill closes, the area producers must then switch to other crops. It is not likely that the plant will ever reopen or that those producers will ever have the option of returning to sugar as a cash crop. Without our current domestic program, the potential demise of the U.S. sugar industry could cost American consumers a dearly high price indeed.

I supported the adoption of the current sugar program in last year's farm bill since I felt it to be a carefully designed program that struck a fair balance between the interests of producers and consumers of this commodity which is in such high demand among us Americans. For the interests of taxpayers, the program is designed to be administered in such a way so there is no cost to the taxpayer and, in fact, the import fees that have been attacked by some are actually increased revenue for our severely strained Treasury.

The current program is certainly no bargain for U.S. producers—USDA estimates that the loan rate for the 1982 crop of sugar will cover only about 70 percent of the average cost of production. I am convinced that we should maintain the domestic stabilization program for sugar at its present modest levels and I will therefore oppose any and all amendments intended to weaken it.

Mr. CHAFEE. Mr. President, I support the Quayle/Tsongas amendment to cut sugar price supports.

Last year, the vigorous congressional debate over the farm bill's price support provisions, and their budgetary effects, indicated a growing belief that the Federal Government can no longer afford to support farm programs to the extent that it has done in the past.

The costs of support guarantees to the Federal Government and the U.S. consumer are an outrage—particularly in light of the cuts being made in social programs.

For example, world sugar prices are 7 cents a pound and the domestic price is about 20 cents a pound. This creates a situation in which consumers are forced to pay 13 cents over and above the world price, at an annual costs of $3.7 billion to the American consumer. This is a consumer tax for which we in Congress are responsible because we continue to vote for sugar price supports.

The sugar price support program has required the administration to impose import quotas on sugar. Without quotas the demand for domestic sugar would drop significantly, and the Commodity Credit Corporation (CCC) would have to purchase the excess. And unlike other crop programs, U.S. sugar producers can produce all they want. This is not reflected in lower prices for the consumer—but in greater Government purchases. Thus, the justification for import quotas.

The Mid-Atlantic and Northeastern States have been dependent upon imported sugar. Simply stated, the consumer is paying more for his sugar consumption than he would if quotas and price guarantees were not in effect.

The Quayle/Tsongas amendment would lower the loan level from 17 cents per pound to 14 cents per pound; this is still two times the world sugar price. Were the amendment adopted, it would save the consumer an estimated $1 billion per year.

Those opposing the amendment may say that Congress had promised American sugar producers a particular price support level, and that it is unfair to reduce the price once the crop has been planted. This argument can be refuted by asking whether or not there ever is a right time to lower price supports.

Clearly, the savings propounded by this amendment far outweigh the costs of the current price supports and the ramifications that I have outlined. I, therefore, will vote against tabling the amendment.

Mr. BAUCUS. Mr. President, I rise in opposition to the Quayle amendment. This amendment would reduce the sugar support level from $0.17 to $0.14 per pound. The $0.17 level we

now have in the sugar loan program is a compromise figure decided on during debate last year on the farm bill. I do not believe this is the time or the proper vehicle to consider a major change in farm policly.

Mr. President, I ask unanimous consent that an editorial from the San Francisco Chronicle appear at this point in the RECORD.

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

[From the San Francisco Chronicle, Sept. 19, 1982]

WAR OVER SUGAR

If we were teaching bright young college students about American politics, we would tell them that they might learn more about the nuts and bolts of the system by studying the recent focus of Congress on sugar than by studying any other facet. Sugar politics, it seems to us, has it all: economics, sociology, international relations, idealism, feudalism, greed, and, as they say, much, much more.

Sugar is a lot more complex than, say, gold because there is far more of it, more varied sources of it and more, far more, lobbying and wheeling-dealing involved in it. We consume, on the average, more than 90 pounds of the stuff annually. If you are reading this while wearing something of nylon, you are wearing it. If sipping coffee from a hardened plastic mug, you are both holding it and probably eating it. Mostly, of course, it is eaten and eaten in such monstrous quantities that it would be unusual indeed if its pricing and marketing were not political. Nations have, in fact, gone near bankruptcy when the world prices slipped. Closer to home, prosperity or poverty for several Hawaiian outer islands is linked to the outcome of the congressional action. A difference of a few cents can have repercussions right across the globe.

Congress has had its attention focused on sugar through an amendment to the debt ceiling bill put forward by Senators Dan Qualye, R-Indiana, and Paul Tsongas, D-Massachusetts, which would reduce the government sugar loan rate, a form of subsidy to growers, from the currrent 17 cents to 14 cents a pound. They say that this apparently simple proposal would "have the effect of reducing consumer sweetener costs by $1 billion annually." And that seems a splendid idea indeed.

And this is the point at which we would ask our students to start plowing new ground in the fields of cane.

Consumers, of course, rally to the Quayle-Tsongas proposal and lobbying begins in earnest. Consumers such as the members of the American Association of Retired Persons and the Consumers Federation of America, give thanks. Some unions get in line, like the Bakery, Confectionary and Tobacco Workers International, AFL-CIO, the members of which cook with sugar, want to see lower prices and say the idea is great. The National Soft Drink Association, members of which buy sugar by the tank car, think the idea is great. And thus we have an alliance of average folk consumers, big labor and corporate conglomerates all lined up. It is an apparently unbeatable political alliance which cuts right across the political spectrum.

But wait. There has to be some skepticism that bringing sugar prices down a few pennies will mean that Cokes are going back to a nickel at the office machine or that good supermarket cookies will not cost $1.50. And there are some big conglomerates who want that subsidy, saying that otherwise they will go out of raising beet or cane sugar. And there is a union, the International Longshoremen's and Warehousemen's Union, which declares that 8 percent of Hawaii's economy is about to wiped out with a cut in the subsidy and that some 8000 workers, a dominant part of the working force on Maui, Kauai and Hawaii, are about to be rendered destitute. The ILWU makes an argument that current low sugar prices have not been reflected on grocery shelves; although sugar prices went down, the union says, prices of foodstuffs containing sugar went up. And the union fears that Caribbean and other sugar-producing tropical lands will form an OPEC-like cartel to control production and price which will be much more detrimental to American consumers than a few pennies of price support.

We would point our students in the direction of sugar, as we noted, because it is something of a classic in the American tug-of-war. Huge corporations are masquerading as consumer advocates, pushing a noble cause because it will benefit them. Unions are pitted one against another in an effort to protect jobs, worker security and turf. If American sugar is not grown, American jobs are, in effect, exported to lands in which working conditions resemble slavery, and that is only one of the complexities of the problem.

A senator who wants a cut in price supports may very well have a major soft drink industry constituency. The senior citizens pushing for a cut in sugar prices do not really want to hurt fellow Americans out in those endless fields of cane on Kauai.

We make no moral or economic judgment. We do know that the problem is fascinating. And we know that, even if sugar is given away free, we're not going to see a nickel Coke again.

Mr. BAUCUS. Mr. President, I believe this editorial addresses the central questions involved under this amendment. Sponsors of the amendment argue that it is a moderate amendment and that it will reduce consumer sweetner costs by $1 billion annually. I challenge these assumptions.

For anyone who thinks that they will see a reduction in the retail price of products containing sugar, let me point out that a couple of years ago the price of sugar skyrocketed to over $0.45 per pound. The price of soft drinks and other sugar products increased. However, now that sugar prices have fallen to less than half of the level they were at 3 years ago, there has been no commensurate decrease in retail prices of sugar products.

This amendment would not save U.S. consumers any money. It would lead to the demise of our domestic sugar industry. Most consumers are probably not aware of the decline in the U.S. sugar beet industry. Since 1974 there have been 23 sugar beet plants closed in 12 States. This is a drop from 59 to 36 plants operating in the United States. The total number of cane mills now stands at 41, down from 59 in 1974. Louisiana alone experienced 16 mill closings.

Many Montana farmers have already been forced out of growing sugar beets because there is nowhere to ship their product to make the production worthwhile. This amendment would significantly reduce the 50-percent share of sugar consumption that is contributed by our domestic industry. It would also cost several hundred jobs and force beet producers to move to the production of alternate crops. A beet producer has a substantial investment in specialized equipment to allow him to produce. This equipment would sit idle and the land would be shifted into the production of other farm commodities.

I am sure that my colleague from Indiana is well aware of the surplus of wheat and corn that is holding farm prices down to dismal levels. This amendment may appear reasonable and moderate, but it would have a profound effect on the number of acres committed to individual farm commodities.

Mr. President, in the interest of time I will not go into the free market arguments that have been brought up as they affect the international sugar trade. However, I would like to associate my comments with those of my colleagues from Louisiana, North Dakota, Minnesota, and Hawaii.

In closing, I would like to mention that the American Farm Bureau Federation, the National Corn Growers Association, and the Oil, Chemical & Atomic Workers International Union oppose the Quayle/Tsongas amendment. I urge my colleagues to defeat the amendment.

Mr. JOHNSTON. Mr. President, will the Senate yield?

Mr. ANDREWS. I yield.

Mr. JOHNSTON. Mr. President, the Senator from North Dakota is making an excellent point, and I hate to interrupt him. But I think I have an amendment here that can improve this amendment so much that even the Senator from North Dakota could vote for it. I wonder if he will yield to me long enough to call up this amendment.

Mr. ANDREWS. Mr. President, from the smile on the face of the Senator from Louisiana, I think I know what the amendment may be. I will be more than happy to have him offer the amendment, without yielding my right to the floor, because I have a couple of other things I want to say that I am sure speak to his amendment and to the amendment offered by the Senator from Indiana and the Senator from Massachusetts.

UP AMENDMENT NO 1266

(Purpose: To limit the power of courts to order busing)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1266 to amendment No. 2016.

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

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

The amendment is as follows:

In lieu of the language proposed to be added by amendment by Mr. QUAYLE, insert the following:

"(a) This amendment may be cited as the "Neighborhood School Act of 1982".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method of public school attendance.

(c) The Congress is hereby exercising its power under article III and under section 5 of the fourteenth amendment.

Limitation of Injunctive Relief

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school or specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imblance in the public school system than was inexistence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student.".

Definition

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

Suits by the Attorney General

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.".

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

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

Mr. ANDREWS. I yield.

Mr. JOHNSTON. Mr. President, I am pleased that the Senate is open to consider amendments of very high priority, because what this amendment does is strike the Quayle amendment, which I think is a matter that can and should be put off until later. It substitutes in place of the Quayle amendment the Neighborhood School Act, which has been passed by the Senate over three cloture votes. Three times this year, the Senate has gone on record in favor of the Neighborhood School Act. We wish to put it in as part of this legislation because this is "must pass" legislation, and the House has the Neighborhood School Act bottled up, and they apparently will not get it out of committee.

So what this does is to take a very low priority matter dealing with the Sugar Act, on which we have acted contrary to what the Senator proposes to do by his first-degree amendment—Senator QUAYLE—and converts it into a very high priority amendment—that is, the Neighborhood School Act. The Senate having gone on record on more than three occasions, by more than 60 votes, I know Senators will be anxious to vote for it.

I yield back the floor to the Senator.

Mr. ANDREWS. Mr. President, I appreciate my colleague from Louisiana substituting a high-quality amendment for one of lesser quality. I could detect what would be coming when I saw the smile on his face.

Let me, in a few moments, answer some of the points that have been brought up on the initial amendment that sparked the substitution of the second amendment, before the Senate moves to dispose of both amendments.

There was some talk about free trade. The sugar price support is actually the only way we can have a powerful statement in favor of free trade. A moment ago, I pointed out that American farmers, whether they are cane or beet producers, can compete with any farmers in the world.

In the European Economic Community today, they are producing a slight surplus of 10 to 15 percent. Those sugar producers in Europe are being paid from 25 to 30 cents a pound for that production. Because they are slightly overproduced, they are dumping that sugar at whatever it will bring on the world market. That establishes the so-called world price. But the world price for sugar, which we just heard referred to, is not a world price for sugar. It is a phony price for distress sugar that has no home.

Eighty-five percent of the sugar that moves in world trade to consumers moves at prices in excess of 26 or 27 cents a pound.

Mr. President, I resent the fact that not only do we get whammied by the other governments subsidizing the dumping of their temporary surpluses into our markets, but also, as a consumer, I resent the fact that 2 years

ago when they did not have a surplus, that so-called world price was at 45 or 46 cents, and Coca-Cola and the other bottlers of pop in this country raised the price of a can of pop. Now, when the price is down, have they lowered it? No way. Have the consumers been protected? No way. It does not make any sense.

As a wheat farmer and a grain producer, when I ship my wheat to Rotterdam and it is offloaded from a boat to provide grain for the people in Western Europe, they add a nice little $5 a bushel import duty to that grain, because they support their price of wheat at $9.70 a bushel and they use that income from that $5 import fee which amounts to billions of dollars to turn around and subsidize exports of whatever they might have in surplus. That is a capricious type of pricing schedule for the consumers of the United States, and I do not think it is fair, and it certainly is not free trade.

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

Mr. ANDREWS. I am glad to yield to the senior Senator from Louisiana.

Mr. LONG. Mr. President, the able sponsor of the amendment, the Senator from Indiana, stated on television that the United States does not import sugar from Europe or has not recently imported it. So far as I know that is correct. But let me ask the Senator from North Dakota whether that is not irrelevant as far as the so-called world market problem is concerned because the fact is that sugar is available for sale in Europe at a ridiculous price, which means that without the provisions of the farm bill of 1981, an American who wanted to sell his sugar could not get any more remuneration for it than the price for all those tons of sugar in Europe, plus the shipping cost, insurance, and duties to import it into the United States. That is all anyone would pay an American producer for sugar. In other words, if there is a large quantity of sugar somewhere in the world, and it is being dumped on the world market for anything it would bring, then Americans would be forced to compete with that price, regardless of whether the foreign sugar is actually shipped to the United States.

So unless we have a law—as do almost all other countries that have sugar industries—to defend our American producers, because otherwise they would be destroyed by the unfair and unlawful price charged by other people throughout the world.

Furthermore, I wish to ask the Senator, is the problem of trying to maintain a price adequate to permit an American farmer to stay on the farm and survive, if he works hard and gives value received, unique to the sugar producers or do we do the same thing for farmers generally in other lines of farming?

Mr. ANDREWS. No. Mr. President, my colleague from Louisiana has pointed out it is not unique. As a matter of fact, we only produce domestically 50 percent of the sugar that we consume in this country, and unless we keep a healthy domestic sugar industry, the consumers have no way of being protected from the vagaries of this dump price.

I think also someone should point out that while the European Economic Community is exporting their temporary surplus at a dump price, they are still importing under long-term sugar agreements sugar from other countries at that 27- to 28-cent price. As a matter of fact, the loan rate that we have established for sugar at 17 cents a pound is 70.87 percent of the USDA 1981 estimated cost of production for raw sugar and less than the loan rate for any other crop covered by the 1981 farm bill.

Mr. President, I think it should be pointed out that soybeans, corn, and the crops produced in the great State of Indiana have a price support as a percentage of parity considerably higher than the very modest 17-cent price support that is in the bill for sugar and the price support for sugar because of the unique intricacies of the international market is not so much a price support provision as it is an antidumping provision. It also occurs to this Senator that Senators from the States that are questioning the sugar section of the Farm Act are among the first to take action on antidumping legislation when the steel industry, the shoe industry, and other industries are under attack by low price subsidized exports from foreign countries invading our market at below their cost of production and below the cost they sell to retail consumers in their country.

Mr. President, the major point I wish to make is the fact that this is not a subsidy for American sugar producers. The price of 17 cents is 40 percent below the price that most consumers pay in the Western World for sugar. It is a very modest price designed to keep the American sugar production industry going.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. ANDREWS. I am glad to yield to my colleague from Louisiana.

Mr. LONG. Mr. President, is the Senator aware of the fact that one of the reasons we are not importing European sugar is that there is a countervailing duty in effect, which was reconfirmed this spring 1982; in other words, the United States law relating to foreign, illegal subsidies requires countervailing duties in the case of sugar?

Mr. ANDREWS. That is right.

Mr. LONG. So that the United States under its law recognizes that this is a matter of subsidization, which is an unfair trade practice that tends to destroy its victim. Therefore, we are not buying sugar from Europe because Europe is engaging in an unfair trade practice by selling its sugar on the world market for a mere fraction of what it costs Europe to produce it.

Perhaps the Senator from Indiana might want to change that U.S. law also and just let Europe and other countries dump their products in the United States, thus destroying American industries. But I ask the question, Does the Senator really think that any Senator would be willing to see any significant portion of the industry of his State, be it farming or be it manufacturing, destroyed by foreign dumping at a mere fraction of the cost of production or by subsidization?

Mr. ANDREWS. Not at all. Not only that but at a mere fraction of the cost to the consumers in the country from which that commodity comes. As a Senator from a sugar producing State we can compete with sugar producers in Europe, we can compete with sugar producers in Latin America, but we cannot compete with a country that markets 90 percent of its sugar for 27 or 28 cents a pound and then when it has an oversupply of 8, 9, or 10 percent they give that away. That is what we are talking about in a world price. That is no bargain for the American consumers. It is no bargain for any stability in trade, and it is a tough deal for us given the state of our economy and the imbalance of payments and what that does to our economy.

As the senior Senator from Louisiana, who is an expert on tax and financial matters, knows so well, this is one of the problems we have gotten into over the last decade because as we have had to pay more and more billions of dollars to import oil our exports have not kept up with our imports and if we kill off the domestic sugar industry that just exacerbates the problems that we have in an imbalance of payments that affects every consumer in this country, every wage earner, every investor, and every retired person.

This is a poor way to try to amend on another piece of legislation a key part, an equitable part, of the overall farm price support program in this country.

Mr. President, I point out one final thing: To the best of my knowledge in the 18 to 20 years I have served in Congress I have never seen an attempt promoted to change the price support program for any agricultural commodity midyear, midcrop. The only time we have ever had amendments to raise or lower or do away with any price support loan agreement has always been at the conclusion of the current year.

The Senate is under enough suspect from people out in the hinterlands not

to become involved now in breaking faith with an agreement that we made with the producers of this country that when they planted that crop they were going to get a certain price support for it at harvest.

It has never been done in the past, Mr. President. I would point out this is another glaring deficiency in this particular amendment.

Mr. BOSCHWITZ. Mr. President, I rise also to oppose the Quayle-Tsongas amendment with respect to sugar, and I want to second the statements that my friend, the senior Senator from Louisiana, has made, as well as my friend from North Dakota.

I would like to talk about the international market for sugar for just a moment and the impact that reducing the loan level would have on the international market for sugar.

I also underline the final statement that the Senator from North Dakota made and that is to the best of my knowledge this is the first time in the history of our country that a bill would be passed that would change a support level or loan level for a crop that is in the ground for farmers who have planted and who have relied on a promise made by the Government.

Mr. President, the total production of sugar is approximately 96 million tons in the course of a year. Most of that sugar is utilized or used or consumed in the countries in which it is produced.

About 19 million tons come on to the free market, on to the world market; another 7 million tons are under special agreement, the largest special agreement being an agreement between Cuba and Russia, so that 19 million tons are on the world market.

The European community that Senator LONG has spoken about contributes about one-third of that 19 million tons and, as a matter of fact, they have grown enormously over the years in their contribution to the world sugar market.

It really is important if that sugar comes to the United States or goes elsewhere; it is subsidized at approximately 12.6 cents a pound, and that subsidy is taken out of the hides of the Europeans who, it is interesting to note, pay a total bill of somewhere between $36 billion and $40 billion a year in subsidies to their farmers.

The result of those enormous subsidies on the average is about 10 times the amount that this Congress passes to subsidize our farmers. The result of those enormous subsidies is the high prices the Senator from North Dakota has referred to; that their production has gone up just extraordinarily in the last 15 or 20 years. European sugar production has tripled. During that same period of time since 1957 sugar production in this country has gone down by about 20 or 25 percent.

Europeans have come to dominate that field of international agricultural trade as they have come to dominate many such areas of trade.

If you look at the price spiraling up and down in the past year, you will see quite clearly that when this country comes onto the market with another million tons the price goes up enormously. The price went up as high as 57 cents here a few years ago. So the basic assumption of of this amendment that if you lower the support level to 14 cents that the result will be that the consumer will somehow benefit is probably wrong.

If you look at the production in the United States, and if it continues on its downward trend, and if we rely more and more on the world marketplace to fill our sweetener needs, if the price goes down low enough, and the corn sweetener market also becomes infiltrated by sugar from other countries, without question the demand on the international markets will be such that the price will escalate and we will begin this rollercoaster up and down again, with the result that the consumers will not profit at all.

The proposed Quayle-Tsongas amendment would lower the present sugar support level from 17 to 14 cents per pound.

If passed, it would be the first time in our country's history that a price support level has been lowered after a crop has been planted. It is important to note at the outset that there is expected to be no budget outlay for the sugar programs. Any outlays in the past have always been offset by receipts.

I. WORLD SUGAR PRODUCTION

Sugar is grown in more than 100 countries. Chart 1 and table 1 show that production has increased from 41 million metric tons in 1957 to about 87 million metric tons in 1981. Although production bumps up and down from one season to the next, the trend is definitely upward—a record harvest of 96 million metric tons is projected this year.

Table 2 lists the 10 leading countries in sugar output. It is interesting to note that while the only Western European countries among the top 10 are France and Germany, the European Community (EC) as a whole is the largest sugar producing entity in the world—over 15 million metric tons.

In contrast to much of the rest of the world, sugar production in the United States in 1976 at 6.5 million metric tons and has declined 17 percent to 5.4 million metric tons in 1981—table 3. A breakdown of U.S. cane and beet sugar production by States is provided in table 4. There are four cane States and 15 beet States, with Texas producing some of both. Before their last plants closed in 1979, both Utah and Washington also produced sugar beets.

A glance at chart 2 explains much of what has plagued our domestic industry. Although the chart only shows world raw sugar prices from 1957 onward, the entire 40-year period from 1930 to the early 1970's was characterized by relatively stable sugar prices. In 1974, the world price soared to almost 30 cents per pound—it actually peaked at 57.17 cents per pound in November—and it has been boom or bust ever since. Sugar growers have reacted predictably to this price instability with cautious and conservative business practice. The future is too uncertain. No new sugar plants are being built. In fact the last new refinery was a beet plant built in my State. Construction started in 1973 and the plant came on stream in 1975. All the planning was done before the market went wild.

The decline of the U.S. sugar beet industry is chronicled in table 5. Since 1974 there have been 23 sugar beet plants closed in 12 States. This drop from 59 to 36 plants represents a decrease of 39 percent. The situation is hardly better in sugarcane where 30 percent of the mills have closed. In cane, the losses have been concentrated in Louisiana with 16 closings. Florida and Hawaii have each lost 1. The total number of cane mills now stands at 41, down from 59 in 1974.

The 17 cent support price established in the 1981 farm bill has resulted in a current domestic market price for raw cane sugar of about 21.4 cents per pound. This is still well below USDA's estimates of 24 cents per pound for producing and processing raw cane sugar and 25.3 cents per pound for refined beet sugar. These cost estimates do not include land costs. So, we will surely continue to lose sugar production capability even under existing law. Fourteen cents will hasten that trend.

Who will benefit by undermining American sugar production?

First. The farmer? Obviously the answer is "No." Quite aside from possibly lower prices and even greater market instability, sugar beet production involves much specialized planting, thinning and harvesting equipment that would be sold—probably for a fraction of its cost—and sugar beet production—once lost—is hard and expensive to regain.

Two. The consumer? It is highly unlikely that the consumer will benefit if American sugar production goes down by, let us say, 1 million tons. If we go onto the world market for that amount of sugar, prices will surely soar. This is dealt with more fully in the next section on world sugar trade, but the impact of demand on prices can be seen by looking at the charts.

Three. The Government? Will we save budget dollars? Highly unlikely. Land now in sugar will go to corn and

wheat and increase surpluses there and substantially increase the Government's exposure to price support loan and deficiency payments. Furthermore, the developing corn fructose industry would be jeopardized by the uncertainties involved and the enormous capital investments needed to produce fructose will surely lessen. If there is a single bright spot in the corn market, it is the increasing demand for corn for fructose—and other products of wet milling. Removing a portion of the growth in that demand will only cause greater havoc in the country's most basic farm commodity—corn.

II. WORLD SUGAR TRADE

Of the roughly 90 million metric tons of sugar grown each year, only about 26 million metric tons moves into world trade. The rest is consumed in the country that grows it. Table 6 gives a breakdown of major world exporters. The amount in international trade can be divided into two categories:

First, 7 million metric tons is tied up in long-term contracts and is not available on the "free market." This consists of: 4.5 million metric tons of Cuban sugar which is committed to other Communist countries; 1.5 million metric tons imported into the European Community under special arrangements and very high prices from former colonies and possessions; and an additional 1 million metric tons made up of numerous smaller pacts.

Second, 19 million metric tons enters the world market as uncommitted sugar.

The United States is the world's largest sugar importer, depending on the market for about half its needs. Typically, we import somewhat over 4 million metric tons, but last year it was 4.8 million metric tons. Toward the end of 1981 more sugar than usual was imported due to uncertainty over what, if any, sugar provisions might be in the 1981 farm bill, and the possibility of our imposing quotas. That meant we started 1982 with relatively large stocks on hand and no need to import aggressively. This undoubtedly contributed to the weak sugar prices early this year.

A key issue is the effect on world prices if the United States had to buy even more sugar overseas than it does now. Currently we take about 20 to 25 percent of the uncommitted sugar in world trade. If we reduce domestic production, that figure would rise and without doubt cause the world price to soar, hurting consumers and very adversely affecting our balance of payments.

An explanation of the current world market would be incomplete without examining the role of the European Community (EC). The EC's farm policy is markedly different than ours. It has encouraged excessive production of many agricultural products and has disrupted the world market by dumping them at prices well below the cost of production. The members of the EC strive to increase production by supporting prices well above the world price, sometimes twice as high. Since the EC was formed in 1957, its sugar production increased from 5.4 million metric tons to 15.5 million metric tons, almost a tripling—our production today is where theirs was in 1957. The dramatic increase in production boosted the EC from its position as a net importer of sugar to the largest net exporter.

When the EC began to export sugar it faced a crucial problem. Why would anyone buy its sugar when the price was so far above the world market price? It decided to subsidize the price by paying exporters a "restitution." Today that restitution is 12.6 cents per pound and the EC is an exporter of 6.5 million metric ton of sugar. It is the dominant factor in world trade accounting for 30 percent of the volume, having gained that share by paying an export subsidy equal to nearly twice the present world price. The world sugar market is hardly a "free" one.

Anybody could win the export game by playing under those rules. It helps us understand why the EC countries will spend between $37 to $40 billion on agricultural subsidies this year. The normal cost level of our price support system is about $5 billion—though admittedly nearly twice as high this year due to the disastrously low farm prices.

In that environment, it is no wonder that the world price for sugar is low. If there was 30 percent less corn on the world market—or if the U.S. corn crop dropped by 10 percent—think of how the corn price would shoot up. Clearly, if we allow our own sugar producers to go out of business by subjecting them to the artificially low world price—or the 14 cents per pound Quayle-Tsongas price—we will simply be rewarding the EC for its unfair practices. The Europeans, and others, would make a killing, and after first destroying our industry by selling their surplus at low prices, the world market would surely soar.

III. QUOTAS

Some say that our sugar import quotas are unfair and work to the detriment of our traditional suppliers of sugar, because they limit the amount of sugar that can be brought in. This is not entirely true. We have every right under the General Agreement on Tariffs and Trade (GATT) to impose quotas when our domestic price support operation is threatened by imports. The EC, on the other hand, likely is violating GATT when it captures more than its historic share of the world market through subsidies. In fact, other sugar producing countries are bringing that case against the Europeans to the GATT, but it has not yet been resolved.

The impact of the quotas on our traditional sugar suppliers caught even me by surprise. The quotas actually increase their total income from sugar sales. I had to look at it a second time to understand how it works. The quotas are allocated based on imports from each country over the past 7 years. Right now Caribbean countries are able to sell us sugar at 15.65 cents per pound—raw sugar, duties and fees paid, New York—more than twice the world price of 7 cents. So, their total sugar income is greater with the quotas than without them.

That explains why those countries are not lobbying actively to get the quotas removed. They may argue that the base period should be longer or shorter which would benefit some and hurt others. But they know they are better off with quotas than without them.

IV. CONCLUSION

The well intentioned Quayle-Tsongas amendment is not a useful attempt to deal with a complex issue.

Consumers will be better served by a dependable support of sugar at a reasonable price than by wildly fluctuating prices. The U.S. sugar industry will be better served by a program that allows it to exist in some certainty rather than being subject to the recent vagaries of a world market that is not a free market. Our country and our Federal budget will be better served if acres now in sugar are not converted to producing corn and wheat—already in surplus and at dismally low prices.

The interests of all will be better served if the Quayle-Tsongas amendment is defeated. I urge you to join me in that effort and to support the Symms resolution which highlights the problems caused by the EC.

Mr. President, I ask unanimous consent that various tables be printed in the RECORD.

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

TABLE 1

	World raw sugar production (thousand metric tons)	World raw sugar annual average price (cents per pound)
1957	41,449	5.16
1958	44,535	3.50
1959	48,887	2.97
1960	49,084	3.14
1961	54,404	2.91
1962	51,319	2.98
1963	50,378	8.50
1964	54,852	5.87
1965	64,518	2.12
1966	62,112	1.86
1967	64,918	1.99
1968	66,482	1.98
1969	67,144	3.37
1970	71,217	3.75
1971	70,676	4.52
1972	71,425	7.43
1973	75,079	9.61

TABLE 1—Continued

	World raw sugar production (thousand metric tons)	World raw sugar annual average price (cents per pound)
1974	79,999	29.99
1975	78,523	20.49
1976	81,679	11.58
1977	86,305	8.11
1978	92,544	7.82
1979	91,189	9.66
1980	84,237	29.02
1981	86,832	16.93

TABLE 2.—MAJOR SUGAR PRODUCING COUNTRIES

	Million metric tons [1]
1. India	8.5
2. Brazil	8.5
3. Cuba	7.0
4. U.S.S.R	6.0
5. United States	5.5
6. France	5.5
7. West Germany	3.7
8. Australia	3.6
9. People's Republic of China	3.4
10. Mexico	2.6
Total largest 10 countries	54.3
European Community (EC-9)	15.5

[1] Production from September 1981 to August 1982.

Note: EC-9 includes: Belgium, Luxemburg, Denmark, France, West Germany, Ireland, Italy, Netherlands, and United Kingdom.

TABLE 3.—U.S. SUGAR STATISTICS, 1957-81

[In thousands of metric tons]

	Production	Imports	Exports	Total domestic use
1957	4,188	3,779	9	8,200
1958	4,018	4,315	11	8,341
1959	4,401	4,147	6	8,571
1960	4,460	4,279	5	8,671
1961	4,805	3,834	6	8,868
1962	4,899	4,192	3	9,106
1963	5,042	4,070	4	9,256
1964	5,854	3,562	5	9,194
1965	5,985	3,498	3	9,253
1966	5,483	3,846	3	9,589
1967	5,518	4,252	1	9,535
1968	5,466	4,526	1	9,535
1969	5,792	4,324	1	9,716
1970	5,592	4,766	1	10,043
1971	5,605	4,821		10,579
1972	5,564	4,973		10,900
1973	6,046	5,099		11,179
1974	5,378	5,346		10,826
1975	5,254	3,887	189	8,997
1976	6,535	3,664	80	9,800
1977	6,234	4,482	40	10,019
1978	5,436	4,414	14	9,872
1979	5,557	4,416	12	9,751
1980	5,187	4,822	336	9,519
1981	5,448	3,977	720	9,117

Note: Production plus imports minus exports equals total domestic use due to change in stocks.

TABLE 4.—U.S. SUGAR PRODUCTION BY STATES, 1981

	1981 (1,000 short tons)	1981 (metric tons)
Cane sugar:		
Florida	969.6	879.6
Hawaii	953.5	865.0
Louisiana	666.9	605.0
Texas	114.6	104.0
Total	2,704.6	2,453.6
Beet sugar:		
Arizona	30.0	27.2
California	702.0	636.8
Colorado	173.3	157.2
Idaho	374.1	339.4
Kansas	28.4	25.8
Michigan	203.0	84.2
Minnesota	442.0	401.0
Montana	92.6	84.0

TABLE 4.—U.S. SUGAR PRODUCTION BY STATES, 1981—Continued

	1981 (1,000 short tons)	1981 (metric tons)
Nebraska	188.7	171.2
New Mexico	4.3	3.9
North Dakota	265.2	240.6
Ohio	27.4	24.8
Oregon	30.8	27.9
Texas	57.5	52.2
Wyoming	107.8	97.8
Total	2,727.1	2,374.0
Total cane and beet	5,431.7	4,927.5

TABLE 5.—SUGAR BEET PLANT CLOSINGS, 1974-82

State and city	Daily slicing capacity short tons (2,000 lb)	Date closed
Arizona: Chandler	4,200	1982
California:		
Spreckels	6,500	1982
Santa Ana	1,800	1979
Colorado:		
Ovid	2,650	1982
Eaton	2,200	1976
Longment	3,200	1977
Brighton	2,200	1977
Delta	1,700	1977
Rocky Ford	3,400	1979
Idaho: Idaho Falls	4,200	1979
Iowa: Mason City	2,400	1975
Maine: Easton	4,000	1976
Minnesota: Chaska	2,100	1974
Montana: Hardin	1,900	1974
Nebraska: Bayard	2,200	1982
Ohio:		
Ottawa	1,600	1979
Findley	1,600	1979
Fremont	3,200	1981
Utah:		
Lewiston	1,950	1974
West Jordan	1,700	1974
Garland	2,500	1979
Washington:		
Moses Lake	10,500	1979
Toppenish	4,500	1979

TABLE 6

	Thousand metric tons
World sugar exports by geographic area:	
North America	8,153
European Community	5,623
South America	3,674
Asia	3,032
Oceania	3,030
Africa	2,577
Eastern Europe	512
Rest of Western Europe (non-EC)	306
U.S.S.R	125
Other	208
Total	27,240
15 largest exporters:	
European Community [1]	5,623
Cuba	5,500
Australia	2,655
Brazil	2,400
Philippines	1,582
Dominican Republic	824
Thailand	762
United States	720
South Africa	627
Argentina	633
Mauritius	495
Fiji	375
Swaziland	340
China (Taiwan)	335
Guyana	276
Total	23,147

[1] Because the EC operates as a single unit through its common agricultural policy, the member countries (Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, and United Kingdom) are listed as 1 exporter.

Mr. SYMMS. Mr. President, will the Senator yield for a moment? I want to compliment the Senator from Minnesota for his remarks, as well as my friend from North Dakota and the two Senators for Louisiana.

If the proposition that our good friend from Indiana makes is true, why is it that a can of Tab costs as much as a can of Coca-Cola, that is if the price support has such a big impact?

I recall very well when the price went up to nearly 60 cents a pound, there was a sugar scarcity of 5 percent, the world price had skyrocketed, but the price was not reflected in the cost of soda pop in this country. The fact is that when this little section of the world's sugar supply sells on the free market, only some 20 percent of all sugar produced, a little oversupply will cause the price of sugar to plummet. Even then we really do not see any perceptible reflection in the prices of products that use sugar.

It is interesting to note, and my good friend from Indiana will be interested to know, that during the years when we had no sugar program there was a differential of 3 to 5 cents between the price paid by the people in New England and the price paid by those who lived on the west coast. This was because of the transportation, handling and packaging costs to import the sugar—costs which were not borne by consumers in sugar producing regions. So this is one commodity in the world that really does not reflect a free market price. There is only one little segment that is traded in the free market.

Mr. BOSCHWITZ. What happened to a can of pop, Senator, after the price came down?

Mr. SYMMS. I think it stayed up.

Mr. BOSCHWITZ. Still up where it was when the price of sugar was 60 cents.

Mr. SYMMS. That is correct.

Mr. BOSCHWITZ. You bet.

Mr. SYMMS. It has not come down because the sugar costs are a small portion of the costs of a can of soda.

This fact is well illustrated by an editorial entitled "War Over Sugar," which recently appeared in the San Francisco Chronicle regarding this very amendment, and I ask unanimous consent that the article be printed in the RECORD.

In addition, Mr. President, the Wall Street Journal featured an article entitled "Falling Sugar Costs Generally Fail to Bring Down Retail Food Prices." Both of these articles address the fallacy of the consumer arguments that have been raised on this issue.

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

[From the San Francisco Chronicle, Sept. 19, 1982]

WAR OVER SUGAR

If we were teaching bright young college students about American politics, we would tell them that they might learn more about

the nuts and bolts of the system by studying the recent focus of Congress on sugar than by studying any other facet. Sugar politics, it seems to us, has it all: economics, sociology, international relations, idealism, feudalism, greed, and, as they say, much, much more.

Sugar is a lot more complex than, say, gold because there is far more of it, more varied sources of it and more, far more, lobbying and wheeling-dealing involved in it. We consume, on the average, more than 90 pounds of the stuff annually. If you are reading this while wearing something of nylon, you are wearing it. If sipping coffeee from a hardened plastic mug, you are both holding it and probably eating it. Mostly, of course, it is eaten and eaten in such monstrous quantities that it would be unusual indeed if its pricing and marketing were not political. Nations have, in fact, gone near bankruptcy when the world prices slipped. Closer to home, prosperity or poverty for several Hawaiian outer islands is linked to the outcome of the Congressional action. A difference of a few cents can have repercussions right across the globe.

Congress has had its attention focused on sugar through an amendment to the debt ceiling bill put forward by Senators Dan Quayle, R-Indiana, and Paul Tsongas, D-Massachusetts, which would reduce the government sugar loan rate, a form of subsidy to growers, from the current 17 cents to 14 cents a pound. They say that this apparently simple proposal would "have the effect of reducing consumer sweetener costs by $1 billion annually." And that seems a splendid idea indeed.

And this is the point at which we would ask our students to start plowing new ground in the fields of cane.

Consumers, of course, rally to the Quayle-Tsongas proposal and lobbying begins in earnest. Consumers such as the members of the American Association of Retired Persons and the Consumers Federation of America, give thanks. Some unions get in line, like the Bakery, Confectionary and Tobacco Workers International, AFL-CIO, the members of which cook with sugar, want to see lower prices and say the idea is great. The National Soft Drink Association, members of which buy sugar by the tank car, think the idea is great. And thus we have an alliance of average folk consumers, big labor and corporate conglomerates all lined up. It is an apparently unbeatable political alliance which cuts right across the political spectrum.

But wait. There has to be some skepticism that bringing sugar prices down a few pennies will mean that Cokes are going back to a nickel at the office machine or that good supermarket cookies will not cost $1.50. And there are some big conglomerates who want that subsidy, saying that otherwise they will go out of raising beet or cane sugar. And there is a union, the International Longshoremen's and Warehousemen's Union, which declares that 8 percent of Hawaii's economy is about to wiped out with a cut in the subsidy and that some 8,000 workers, a dominant part of the working force on Maui, Kauai and Hawaii, are about to be rendered destitute. The ILWU makes an argument that current low sugar prices have not been reflected on grocery shelves; although sugar prices went down, the union says, prices of foodstuffs containing sugar went up. And the union fears that Caribbean and other sugar-producing tropical lands will form an OPEC-like cartel to control production and price which will be much more detrimental to American consumers than a few pennies of price support.

We would point our students in the direction of sugar, as we noted, because it is something of a classic in the American tug-of-war. Huge corporations are masquerading as consumer advocates, pushing a noble cause because it will benefit them. Unions are pitted one against another in an effort to protect jobs, worker security and turf. If American sugar is not grown, American jobs are, in effect, exported to lands in which working conditions resemble slavery, and that is only one of the complexities of the problem.

A senator who wants a cut in price supports may very well have a major soft drink industry constituency. The senior citizens pushing for a cut in sugar prices do not really want to hurt fellow Americans out in those endless fields of cane on Kauai.

We make no moral or economic judgment. We do know that the problem is fascinating. And we know that, even if sugar is given away free, we're not going to see a nickel Coke again.

[From the Wall Street Journal, Dec. 23, 1981]

FALLING SUGAR COSTS GENERALLY FAIL TO BRING DOWN RETAIL FOOD PRICES

(By G. Christian Hill)

Sugar is one of the largest costs at Bierman's Bakery in Los Angeles, and the price of refined sugar has dropped by about half in the past year. But the little shop on Wilshire Boulevard recently raised the price on its sugar-laden almond croissants by five cents each.

That's Gray's Law of Sugar at work. Its propounder, Agriculture Department economist Frederick Gray, puts it this way: "Whether sugar increases or decreases in price, prices of products containing sugar always increase."

With exceptions, the law generally applies to processed foods. When the cost of their main ingredients rises sharply in the futures or cash markets, food processors are quick to raise prices and blame the increase on costs. When commodity prices fall, the processors often raise their prices, too, or at least leave prices unchanged, but neglect to mention declining costs.

Sugar offers as sweet an example as any. From October 1980 to October 1981, an oversupply of "world," or nonsubsidized sugar, forced the price down by about 70 percent. But according to an Agriculture Department survey, the cost of 14 sugar-heavy products ranging from candy bars to soft drinks rose 8.4 percent over the same period.

There are reasons why falling sugar costs fail to bring retail prices down. For one thing, although the cost of sugar is an important one for candy makers, soft-drink bottlers and others, there are other costs, too, and they may be rising while sugar prices are falling.

For another, it's convenient for processors to justify increases when sugar prices have risen, even though other cost increases might have encouraged rises anyway. The cost of sugar accounts for about 15 percent to 20 percent of the price of a bottle of pop. Packaging costs, including the costs of plant and labor, account for about a third, analysts figure, and distribution costs, 11 percent.

Yet the discrepancy between sugar costs and retail prices seems wider than usual over the past year. Consider that most sugary of all retail products, sugar itself. Since October 1980, its wholesale list price in the Northeast has fallen by 53 percent. The retail price, however, has declined by only 33 percent. In the last big sugar slump, in 1975, the retail price fell 55 percent against a decline in the wholesale price of 61 percent.

One reason why sugar savings aren't getting passed along, sugar brokers and other specialists believe, is that food processors, wholesalers and retailers are keeping more of the savings for themselves. That's in an attempt to repair profit margins eroded by years of inflation or market competition. While some companies may be keeping prices firm despite falling sugar costs, others may be increasing their profits even more by raising prices.

"This is what happens in an inflationary spiral," an officer of a big sugar cooperative says. "A drop in sugar prices is like a drop in the price of tires to auto makers. They use that margin to make up losses from cost increases they can't control."

Or so, apparently, Hershey Foods Corp., Hershey, Pa., is doing. Hershey hasn't raised the price on its Hershey bars since April 1980. But it endured big sugar-cost increases that year. This year, with sugar depressed, Hershey is believed to be using its savings to compensate for what happened in 1980.

"If a manufacturer goes through a period of rising commodity costs, he'll try to raise prices as quickly as possible, but typically can't recover all the costs because of consumer resistance," says Lee Tawes, a sugar-industry analyst. "When prices come down, he won't cut prices unless forced by competition. He'll typically take a bigger margin."

Hershey is hardly encouraged to cut prices. One of its big competitors, M&M/Mars, Inc., Hackettstown, N.J., has dealt with the sugar market in a different way and actually raised its prices by 3.4 cents a bar in September. The company cited higher costs. It also suggested that because Mars bars are bigger than Hershey's and other rivals, it could hold onto its market share. "Even at our new prices, our bars will still be the best value in the chocolate-bar market," said Jay Langdon, director of marketing, when Mars raised prices.

PRICING PRESSURE

Mars' competitors insinuated profiteering. After all, they observed, not only sugar costs but also cocoa costs were depressed. Hershey even took out advertisements saying it didn't consider a price increase justified. Curiously enough, however, Hershey remains under some pressure to raise its prices, too, even though it may genuinely prefer not to. The reason is that wholesalers and retailers prefer to price like products alike, so that a price increase by an aggressive marketer often leads to price increases by its competitors.

In early 1980, for instance, chewing-gum makers increased their wholesale price to raise the pack of gum at retail by five cents. Wrigley, a big gum maker, at first didn't go along. Even so, retailers raised the price of Wrigley's gum by five cents a pack. They told Wrigley that a standard price on chewing gum made it easier for cashiers. In the case of Wrigley's gum, of course, raising the retail price with no increase in wholesale cost made Wrigley's much more profitable for the retailers.

"The retailers were enjoying higher than normal margins, and we were paying for it," says Bill Piet, an assistant vice president at Wrigley. "Our margins were going down"—because of other costs—"and the consumer

wasn't benefitting." Finally Wrigley, too, raised its prices.

WHOLESALE PRICE SNAG

Similarly, wholesale and retail prices of sugarless drinks, such as Tab, rose right along with sugar-filled drinks last year. Neither bottlers nor retailers like to charge distinctly different prices on such beverages. Indeed, beverage bottlers, perhaps even more than other sugar users, have benefitted from sugar's declining cost. They're getting more money for nonsugar concoctions and paying less for sugar. Coke bottlers, at the end of October, for instance, were being charged by Coca-Cola Co. only $2.64 a gallon for Coke syrup, down from $3.73 in October 1980, according to a bottler.

But Coke bottlers themselves don't keep all the savings. Most of Coca-Cola's 550 contract bottlers pay for the sugar in their syrup at a price based on sugar's average publicly listed wholesale price each quarter. But sugar brokers say that Coca-Cola gets much of its sugar directly from producers and pays refiners a "tolling fee" to process it. Wholesale prices have fallen less than producers' prices. Even when Coca-Cola buys at wholesale from refiners, the brokers say, its costs are at least $3 to $4 a hundredweight less than the wholesale price, and it gets high-fructose corn syrup, a sugar substitute, for about $1 below wholesale.

Coca-Cola is the biggest sugar consumer in the U.S. It buys, industry estimates have it, about a million tons of sugar and fructose a year. A broker estimates that the difference between the prices at which Coca-Cola can buy at wholesale and the wholesale list price amounts to more than $25 million a year. Coca-Cola won't discuss its sugar cost and price. But others in the business think that much of the cash generated by its spread between cost and price goes to finance Coca-Cola's marketing battle with Pepsi-Cola.

PRICE "UMBRELLA"

To the extent that it means discounting Coke prices in certain competitive markets, the consumer benefits. But overall, sugar brokers say, Coca-Cola's pricing policy maintains an "umbrella" over prices, under which other soft drink companies can keep their own prices higher than they might otherwise be able to.

Yet another factor influences sugar-product prices in the U.S.—the government. Since 1977, it has supported the price paid for U.S. produced raw sugar at 11-cents to 16 cents a pound by imposing duties and fees on imported sugar that accounts for half of U.S. consumption.

Under a pending farm bill, the support level would rise to 18 cents a pound by 1984. The aim is to protect U.S. sugar growers against foreign competition.

Sugar specialists estimate that sugar consumers in the U.S. pay $300 million a year in higher prices for each cent that the U.S. support price exceeds the world market price on sugar. It means that at the current support level, the additional yearly cost is running close to $1 billion.

That, complains the Ohio Soft Drink Association, "contributes to inflation, constitutes unfair taxation, benefits a select nonvital industry at the expense of American consumers and makes a mockery of the free-enterprise system."

Mr. INOUYE. Mr. President, I rise today to urge my colleagues to defeat the Quayle-Tsongas amendment. The sponsors of this amendment have suggested, in the name of the American consumer and free trade, that we must cut the sugar program from 17 cents to 14 cents a pound. In so doing, they ignore the extensive debate that we had on this very same issue last fall. At that time, the Senate voted overwhelmingly in favor of an 18-cent sugar price-support level. The conference committee lowered the level to 17 cents a pound, and both Houses ratified that decision.

Mr. President, we knew what we were doing last year when we approved the current sugar program, as did the President of the United States when he signed the measure into law. Yet now we are being asked to retrace our steps and debate the very same issues all over again. In so doing, we are being asked to set a dangerous precedent that has the farmers of America very concerned—I trust that everyone in this body has read their letters from the National Corn Growers Association and the American Farm Bureau Federation opposing the Quayle-Tsongas amendment. It is a mystery to me why we should now go back and reverse the decisions we made only 11 months ago.

Mr. President, the Quayle-Tsongas amendment is a bad idea at a bad time which will seriously undermine the confidence of America's farmers in our price-support systems. Cutting the sugar program at this stage will severely damage the American sugar industry, hurt our balance of trade, and cost the American consumer dearly in the long run. It is a poorly conceived idea that serves the purposes of only a few large corporations which want to take advantage of what is, for the time being, a severely depressed price on the so-called world sugar market. As we all know, the "world market" accounts for less than one-fifth of the world's sugar production and is where exporting countries dump their surpluses, often at a great loss. The current price of 6¼ cents a pound is well below the cost of producing sugar anywhere in the world, yet it represents a great potential windfall for companies that use sugar in making their goods.

Mr. President, the existing sugar program is a commonsense approach to stabilizing the price of a very volatile commodity on an unpredictable market. It is similar to the other programs we have for wheat, corn, soybeans, cotton, sorghum, and rice, yet the support price is the lowest of any commodity when measured as a percent of last year's cost of production, minus land. The sugar program puts a floor under the price of sugar, which has in recent years gone from 65 cents a pound in 1974 to between 7 and 10 cents in 1976-78, then to 42 cents in late 1980, and finally down to 6¼ cents in September of this year. In so doing, the program guarantees American sugar producers a minimum price for their efforts. It does not, however, guarantee them profits. Indeed, the Hawaiian sugar industry—the most efficient in this country and the one with the highest yields in the world—lost $83 million in 1981 and expects to lose $27 million more this year. What the sugar program does is to offer domestic producers some hope of riding out bad days in the boom-or-bust market in the hope of better days ahead.

The major difference between sugar and the other commodities with price support programs is that we import 45 percent of our sugar. Here is where most of the questions and misconceptions about the Quayle-Tsongas amendment come into play. Mr. President, the distinguished Senators from Indiana and Massachusetts have argued that their amendment is a timely measure which will save consumers money and help our foreign trade. Nothing could be further from the truth, and I ask my colleagues' indulgence while I review their arguments and demonstrate just how wrong they are.

THE TIMING ARGUMENT

Mr. President, the first argument raised by the gentlemen from Indiana and Massachusetts is that the time is right for their amendment. Now is when we should reduce the price support for sugar since the end of the fiscal year is near, as is the date for the announcement of the USDA's new quotas on sugar imports.

Mr. President, now is the worst time possible for cutting this or any other price-support program. First of all, we are in the middle of the sugar crop cycle, which varies by region and the type of sugar grown. Never before has Congress promised farmers one price and then reduced that price before the harvest is in. I suggest that this is not the time to start this practice.

Mr. President, some people may try to argue with me by pointing to recent Senate votes on the milk and tobacco programs. However, these actions involved capping payments to farmers who were producing too much. The emphasis was on curbing supplies and reducing the cost to the Government. In the case of sugar, domestic producers are losing money and decreasing the amount of land and the number of mills in production. Furthermore, the sugar program, unlike the dairy and tobacco programs, is earning the Government money. The amendment before us would be, in fact, the first time that we reduced a support program before the harvest is in. My fellow Senators, what sort of precedent would this establish? Do we really want to open commodity programs to a free-for-all every time some interest group singles out a program for reduction? We all recall the long and painful process involved in putting

the farm bill together last year. How many times do we have to go back to the well?

A second point about the timing of this amendment is that it could not come at a worst time for farmers. The Nation is in the grips of a recession, and farmers are amongst those hardest hit. The Quayle-Tsongas amendment would spell the demise of our domestic sugar industry and send a shudder through the rest of our farming community. Producers of all commodities will wonder—are we next? Is there any future for us, or should we get out of agriculture before Congress reneges on yet another promise? Mr. President, the proposal to cut the sugar program from 17 cents to 14 cents a pound is grossly mistimed and will establish a dangerous precedent. On these grounds alone, the Senate should defeat this attack on the farmers of America. On this issue, we must send a clear signal that we intend to keep our word and our faith with the hard-working farmers of America.

THE CONSUMER COST ARGUMENT

Mr. President, if the Quayle-Tsongas amendment does not serve the American farmer, just who does it help? This brings me to the second argument being raised in favor of the amendment—that it will save consumers billions of dollars each year.

Mr. President, nothing could be further from the truth. Rather than help consumers save money, it will enable certain east coast corporations to earn large profits during periods of depressed sugar prices. The key fallacy in the argument made by the Senator from Indiana is the claim that consumers will pay an extra $2 to $4 billion this year because of the sugar support program. It is equally erroneous for the Senator to argue that consumers will save $300 million for every 1-cent decrease in the price of sugar.

Let me illustrate. Americans consume only 20 pounds, or about one-fourth of their sugar, as the refined product that you find on the coffee table. The other 60 pounds, or three-quarters, is consumed as a sweetener in soft drinks, candy bars, and other processed foods. It is absolutely wrong for the gentleman from Indiana to argue that savings are passed on to the consumer for the sugar used in these processed foods. The fact of the matter is that while food processors are happy to raise the price of their goods when the cost of sugar goes up, we rarely see those same prices decline when the price of sugar goes down. As the vice president of Supermarkets General Corp. stated in Business Week on April 19: "They have used increases in sugar prices as an excuse to raise their prices, but decreases in sugar prices never seem to get translated down." Indeed, while the price of raw sugar in New York fell 70 percent from October 1980 to October 1981, the price of 14 major sugar-containing products increased by an average of 8.4 percent.

Similarly, if one accepted the Senator from Indiana's own argument that a penny's change in the price of raw sugar makes a $300 million difference in the cost to the consumer—which is not true—the American consumer should have saved $3.129 billion on sugar and sugar-containing products last year as a result of the drop in sugar prices.

This did not happen. Instead, the National Soft Drink Association's survey of sales in the soft drink industry, as reported in the Food Institute Weekly Digest of July 31, stated that the wholesale value of soft drinks rose some 13.2 percent in 1981, on a volume increase of only 3.8 percent. Were the savings of lower sugar prices passed on to the consumer? No; they were kept by the companies as profits.

Mr. President, corporate users of imported sugar cannot have it both ways. Some argue that savings are passed on to the consumer in the form of slower price rises. My reaction to that is: Thanks for nothing. If in fact bottlers and processors use increased sugar costs to raise their prices, then they must use the same rationale to lower their prices when the cost of sugar declines. However, this has not happened. I must, therefore, conclude that the Quayle-Tsongas amendment is primarily a Coca-Cola bill, not a consumer interest bill.

Mr. President, I urge my colleagues to examine the issue of consumer costs and corporate profits closely. In so doing, I trust that they will join with the USDA in concluding as follows:

> If the loan rate for 1982-crop raw cane sugar is set at the legal minimum of 17 cents a pound . . ., growers and processors are provided with the assurance required to sustain domestic production, while increases in consumer costs are minimized.

This option, spelled out on page 12 of the USDA's report entitled "The Price Support Loan Program for 1982—Crop Sugar Beets and Sugar Cane," is the one being implemented for the 1982 crop year.

THE TRADE ISSUE

The third excuse used by the Senators from Indiana and Massachusetts to cut the sugar program is the trade issue. They suggest that the sugar program is hurting the President's Caribbean Basin Initiative and that it is harming our agricultural exports. They have further warned that the imposition of sugar quotas might lead to protectionism and retaliation by our trading partners.

Mr. President, the supporters of this amendment have put the cart before the horse. There are already numerous trade barriers abroad which our sugar program will do nothing to change. Why should sugar be any different than textiles, steel, chemicals, beef, and grain, where we protect American jobs and American industry against unfair foreign competition?

Do the proponents of this amendment seriously expect us to offer up sugar as a sacrificial lamb in the name of free trade when almost every other sugar producing country has import restrictions, quotas, price supports, or artificially high, long-term sale contracts? Do they expect us to listen to naive lectures about free trade when President Reagan himself has done more than anyone else to outrage our European allies by barring the sale of pipeline technology to the Soviets? The ultimate irony is that one of the Senators supporting the Quayle-Tsongas amendment is offering his own amendment suggesting that we protect the American steel industry against dumping from abroad—and he cites sugar as an example of an American industry being hurt by such unfair competition.

Mr. President, the gentleman from Indiana has berated the imposition of sugar quotas this past May as being contradictory to established U.S. trade policy. My colleagues know that quotas are a temporary measure necessitated by massive dumping of sugar on the so-called world market. What the Senator overlooks is that in imposing these quotas, the administration acted within both the law and our agreements under GATT, the General Agreement on Tariffs and Trade. For example, the U.S. Cane Sugar Refiners Association recently brought suit in the U.S. Court of International Trade in New York in an effort to halt the use of quotas to defend our sugar program. However, Judge Newman ruled in favor of the Government.

The association then appealed the case to the Court of Patent and Customs Appeals in Washington, and again the court found that the President had acted within his authority and consistently with established trade practices.

I would also point out that quotas are an accepted part of the international sugar agreement's price stabilization mechanism. The United States is a member of this group, but unfortunately the European Economic Community is not. As a result, the international sugar agreement has been ineffective in stabilizing the international price of sugar, yet the Senator from Indiana is worried about offending the European Economic Community by using quotas to defend our domestic sugar industry. This argument just does not make sense.

There is another aspect of the trade argument which puzzles me; namely, the claim that the quota program is hurting our friends and allies who supply us with sugar. This too is false.

Let me illustrate by pointing out that sugar exporting countries, especially those in the Caribbean, received a 9.88 cent premium in August for selling their sugar in the United States under the current price-support program. I derive this number by taking the price of raw sugar in New York on August 10, which was 22.61 cents a pound, and subtracting freight and insurance costs of 1.5 cents, import fees of 1.42 cents, duties of 2.81 cents, and the price of raw sugar on the world market, which was 7 cents. This yields a premium of 9.88 cents per pound under the current price-support system, which is increasing because of the continued drop in world sugar prices.

Foreign producers now receive prices in New York that are more than double the price abroad. For example, the Dominican Republic, which has 17.6 percent of the import quota established by the USDA, will earn almost $200 per ton in the United States next year. Using today's figures, that will mean $115 million in additional income for this Caribbean ally, thanks to the quota program. The same calculus that applies ot the Dominican Republic also applies to the other Caribbean countries about which the Senator from Indiana has expressed so much concern.

Finally, one fact which the proponents of this amendment have overlooked in arguing the trade issue is that for every pound of sugar we produce in the United States, our money stays at home, thus benefiting our overall economy.

By contrast, purchases of foreign sugar exacerbate our country's balance of payments deficit. This deficit for sugar imports totaled approximately $2 billion in 1980. Had we depended completely on imports, our balance of payments deficit for sugar would have been at least $4.7 billion, and quite possibly more. Yet sponsors of this amendment seem content to let our American sugar industry go bankrupt for the sake of short-term profits by a few large companies.

SUGAR: IN THE NATIONAL INTEREST

The balance of payments problem brings me to the final issue raised by the Quayle-Tsongas amendment: Is our domestic industry worth saving? Are price supports for American sugar growers in the national interest?

Mr. President, the gentleman from Indiana has suggested in a recent floor statement that "there is no justifiable economic rationale for protecting sugar growers in this country" and that "sugar is obviously not related to our national defense." Nothing could be further from the truth.

Mr. President, the U.S. sugar industry is vital to the general welfare of the Nation and makes substantial economic contributions to the many States that grow sugar.

Sugarcane and sugar beets are a major agricultural product in this country. Sugar ranks as one of the top 10 commodities in terms of acreage and dollars earned. Nearly 15,000 Americans grow sugar, and more than 100,000 depend on the domestic sugar industry for their livelihood. In many rural areas and small towns, there are no alternatives to sugar, which is the mainstay of the local economy.

Mr. President, the American sugar farmer is the same kind of farmer as any other American commodity grower. He is the world's most productive agriculturalist, certainly as measured in terms of output per man hour. In Hawaii, we produce more sugar per acre per year than any other place in the world.

We also produce as much sugar with 8,500 workers as they do in the Dominican Republic with 85,000 workers. Similarly we produce sugar at a cost below that of such countries as Barbados, and Haiti. Yet in Hawaii, we pay our workers between $6 and $8.50 an hour. This is more than Haitian workers earn in 5 days. To put it another way, we pay Hawaiian workers more per day than Haitian workers receive per month, yet we produce sugar, which is labor intensive, at a lower cost than they do.

Mr. President, I am not asking that one dime be spent to protect an inefficient industry that is unable to compete on the world market. What I am asking is that the American sugar producer be given the same kind of protection that is given to producers in other countries—protection from dumping at ruinous prices during periods of excess production.

Although we do not produce all of our own sugar, it would be a serious mistake to assume that we do not need to produce any at all. The world market is an unpredictable source of sugar, and there is no guarantee that we could obtain all of our needs abroad. Yet by reducing the price-support level of sugar from 17 to 14 cents a pound, we would wipe out our domestic industry and force us to increase our purchases from foreign countries. We would thus aggravate our negative trade balance. Furthermore, without a domestic industry, the USDA warned in testimony before the House Ways and Means Subcommittee on Trade 3 years ago that consumers face price increases of several hundred percent.

Mr. President, I call thousands of American jobs a good reason for maintaining the sugar price support at 17 cents.

I call an improved balance of trade a good reason to maintain the present price-support system.

I call the long-term interests of the American consumer a good reason to protect the domestic sugar industry.

Mr. President, the American sugar industry is indeed in our country's best interests. I urge my colleagues to join me in voting down the Senator from Indiana's ill-timed, ill-conceived, and illogical amendment. Both American consumers and American producers need the protection afforded by the 17 cent price-support system which we approved last fall. Let us not establish the dangerous precedent for commodity programs being suggested by the Quayle-Tsongas amendment. Should we fail to uphold our vital sugar program, it will mean another domestic industry down the drain, with all of its attendant misery and costs

(Mr. HAYAKAWA assumed the chair.)

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

Mr. DOLE. I yield.

Mr. MATSUNAGA. Mr. President, I rise in strong opposition to the Quayle amendment and in support of the motion to table it, which motion I understand will be offered by the distinguished chairman of the committee, Mr. DOLE. In doing so, I wish to serve notice, now and clearly, that if the motion to table the Quayle amendment fails, I am prepared to speak against the amendment at some length, perhaps even for the next 10 days, along with my senior colleague and colleagues from the sugar-producing States.

Let me assure my colleagues that the avoidance of a lengthy debate need not be the reason for supporting the tabling motion. There are ample meritorious reasons for defeating the Quayle amendment. Permit me to state just a few:

Mr. President, the sugar support provisions of the agriculture and food act of 1981 were incorporated in that act after and as a result of extensive hearings on the merits of those provisions by the Senate Committee on Agriculture and Forestry. This body deliberated extensively on the bill and passed it after defeating amendments which would have deleted the sugar program from the farm bill. The price supports approved by the Congress were lower than those originally contemplated when the committee was considering the bill.

Any suggestion that the sugar price supports as they presently exist would in any way defeat the hopes for a balanced budget as expressed here today is without any basis in fact. The sugar support program is a loan program and does not take subsidy money from the Treasury at the expense of the taxpayer. Moreover, the sugar loan rate is the lowest of any farm commodity as a percent of cost of produc-

tion. The average for wheat, corn, cotton, rice, and soybeans is 92.04 percent of the 1981 cost of production, excluding land cost.

The 17-cent per pound sugar loan is 70.87 percent of such 1981 costs.

Mr. President, it should be pointed out that the allegations that the sugar quota jeopardizes our friendly relations with our neighbor countries to the south and is a consumer ripoff are absolutely not true: The Dominican Republic, in fact, recently testified in support of quotas before the International Trade Commission. Many of those nations which export sugar to the United States may have a smaller quota, but enjoy a higher price than they could obtain on the depressed world market and have hopes of stability in the industry. More importantly, the American consumer is buying sugar at a lower price today than a year ago—more than 20 cents on a 5-pound bag in New York City, according to the Office of Consumer Affairs.

Mr. President, we cannot overlook the significant facts that more than two-thirds of the sugar consumed in the United States is in manufactured products such as soft drinks, candy, bakery products, and canned fruits, and that the price of those products does not go down even when the price of sugar falls to a point below the cost of production and the sugar producers in this country are struggling to survive.

Mr. President, the further allegation that domestic sugar producers have no comparative advantage over foreign producers is not based on comparative facts. Every foreign sugar producer enjoys some form of subsidy from its Government and our producers, although the most efficient in the world, cannot compete with sugar which is dumped in the United States and sold at prices far below its cost of production.

Opponents of the sugar support program talk about the need for an open market and leaving prices to the free market. Where sugar is concerned, there is no free market. The American producer is competing against dump sugar, that is, foreign produced surplus sugar. We have no surplus of domestic sugar, for in fact sugar is an import commodity. About half of all sugar consumed in the United States is imported from foreign countries, while virtually all other farm commodities grown in the United States are produced in excess of domestic needs and are exported, and we are desperately trying to develop export markets for those commodities.

With the efforts needed to maintain our economy and reduce unemployment, we can ill afford to further jeopardize our domestic sugar industry. If it fails 100,000 now employed will be added to the unemployed list. A vote in favor of the Quayle-Tsongas amendment No. 2016 would do just that.

Mr. President I urge support of the motion to table the amendment.

Mr. President, if the distinguished chairman will yield further, I would like to read into the record an excerpt from an article in the Wall Street Journal of December 23, 1981, entitled "Falling Sugar Costs Generally Fail To Bring Down Retail Food Prices." The article, I believe, raises great doubts about the allegations made by antisugar advocates, such as the Senator from Indiana, that the sugar program raises prices to consumers. The article reads in part as follows:

FALLING SUGAR COSTS GENERALLY FAIL TO BRING DOWN RETAIL FOOD PRICES

(By G. Christian Hill)

Sugar is one of the largest costs at Beirman's Bakery in Los Angeles, and the price of refined sugar has dropped by about half in the past year. But the little shop on Wilshire Boulevard recently raised the price on its sugar-laden almond croissants by five cents each.

That's Gray's Law of Sugar at work. Its propounder, Agriculture Department economist Frederick Gray, puts it this way: "Whether sugar increases or decreases in price, prices of products containing sugar always increase."

With exceptions, the law generally applies to processed foods. When the cost of their main ingredients rises sharply in the futures or cash markets, food processors are quick to raise prices and blame the increase on costs. When commodity prices fall, the processors often raise their prices, too, or at least leave prices unchanged, but neglect to mention declining costs.

Sugar offers as sweet an example as any. From October 1980 to October 1981, an oversupply of "world," or nonsubsidized sugar, forced the price down by about 70%. But according to an Agriculture Department survey, the cost of 14 sugar-heavy products ranging from candy bars to soft drinks rose 8.4% over the same period.

There are reasons why falling sugar costs fail to bring retail prices down. For one thing, although the cost of sugar is an important one for candy makers, soft-drink bottlers and others, there are other costs, too, and they may be rising while sugar prices are falling.

For another, it's convenient for processors to justify increases when sugar prices have risen, even though other cost increases might have encouraged rises anyway. The cost of sugar accounts for about 15 percent to 20 percent of the price of a bottle of pop. Packaging costs, including the costs of plant and labor, account for about a third, analysts figure, and distribution costs, 11 percent.

Yet the discrepancy between sugar costs and retail prices seems wider than usual over the past year. Consider that most sugary of all retail products, sugar itself. Since October 1980, its wholesale list price in the Northeast has fallen by 53 percent. The retail price, however, has declined by only 33 percent. In the last big sugar slump, in 1975, the retail price fell 55 percent against a decline in the wholesale price of 61 percent.

One reason why sugar savings aren't getting passed along, sugar brokers and other specialists believe, is that food processors, wholesalers and retailers are keeping more of the savings for themselves. That's in an attempt to repair profit margins eroded by years of inflation or market competition. While some companies may be keeping prices firm despite falling sugar costs, others may be increasing their profits even more by raising prices.

Mr. President, in light of the reasons stated, I am confident my colleagues will join me in tabling the Quayle amendment.

Mr. DOLE. Mr. President, I yield to the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I am concerned that this amendment will change the sugar provisions of the 1981 farm bill before we have had time to evaluate their effectiveness. I am also concerned that the American public is being led to believe that food costs can be reduced by undercutting the minimal levels of support provided to farmers in existing legislation.

Mr. President, the sugar program was established under the 1981 farm bill to encourage stability in the domestic sugar market, to the benefit of both producers and consumers.

I do not believe that now is the time to make a legislative change in the program that could be detrimental to any American farmer. The sugar program should be given a reasonable period of time to achieve its goal—to sustain and increase domestic sugar consumption so as to insure adequate supplies from domestic sources.

This amendment will cut the minimal support level for domestically produced sugar and lead to disastrously low prices for American sugar producers. In this regard, I note that the current sugar price-support level of 17 cents is significantly below the average U.S. cost of production. American sugar producers will not stay in business without the prospect of a fair return for their product. We should not adopt an amendment that threatens to bankrupt American farmers and put workers out of jobs.

If the number of domestic producers declines, the adverse economic effects will spread to many parts of the national economy and the United States will become increasingly reliant upon the uncertain and frequently expensive world supplies.

We should not increase American reliance on world sugar markets. The so-called world free market for sugar is, in fact, tightly controlled: 80 percent of the world's sugar production is sold in protected markets. The remaining 20 percent is dumped on the world market at whatever price it can bring. The United States imports about 30 percent of that residual supply.

The recurring expansion and contraction of residual supplies can cause

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great hardship to producers without benefit to consumers. In November 1974, the world raw sugar prices averaged 57 cents per pound, later fell precipitously to 7.8 cents per pound in 1978, rose to 42 cents per pound in 1980, and collapsed to 7 cents per pound in June of this year. Planning for U.S. sugar production each year cannot take place with such enormous variation in prices.

Opponents of the sugar program claim that lowering the existing support level from the scheduled 17 cents per pound rate that will be effective in October will result in savings to the consumer. There is no historical evidence to suggest that, with the absence of a sugar program, the American consumer will pay consistently lower prices for sugar. As with nearly all agricultural products, the price at the farm gate bears little relation to the grocery store price.

The American family farmer consistently produces an abundance of food products at a low cost to the consumer. I think that the American public is aware that they have a bargain in food prices. American consumers spend less of their take-home pay for food than the consumers in any other nation in the world. Consumer food prices have increased less than the overall rate of inflation every year for the past 3 years and 6 out of the past 7 years.

Mr. President, there is a strong relationship between the state of the agricultural economy and a healthy national economy. Agriculture is America's biggest industry, provides more jobs for our workers, and earns more foreign exchange, than any other industry. We should not make any changes in our farm programs that would increase unemployment and adversely affect our balance of payments.

I urge my colleagues to join me in opposing the pending amendment.

Mr. QUAYLE. Mr. President, as Dave Stockman said in the 1978 debate, when the sugar growers start projecting themselves as the consumer protectors, we all better watch out.

The history of the sugar program shows that prices have fluctuated wildly, with or without a program—for instance, in 1963 prices shot up 200 percent; in 1974 they went up 213 percent, and in 1965 they went down 65 percent. All of these fluctuations happened while the supposed "price stabilization programs" were in effect.

The second response to this argument is that EEC "dumping" is the only reason for low world sugar prices—this too is nonsense and blatantly ignores the facts: Facts show that EEC exports have grown constantly since 1975, but that sugar prices continue to go up and down wildly:

Year	EEC exports (million tons)	World price of sugar (cents)
1975	0	20.37
1976	1.2	11.51
1977	2.3	8.10
1978	3.3	7.81
1979	3.5	9.65
1980	3.7	28.66
1981	4.3	16.80

I might add that the U.S. price-support program and import quotas have reduced American imports from 5 million tons/year to 2.8 million tons. This reduction of 2.2 million tons, about 15 percent of the world market, must do almost as much as the EEC exports to depress the world price.

The history of U.S. sugar prices going back to the 1930's shows that U.S. sugar programs have constantly kept U.S. price well above world price.

In summary, the only thing stable about the U.S. sugar program is that it forces U.S. consumers to pay prices way above the world average for their sugar.

I ask unanimous consent to have printed in the RECORD certain tables detailing the history of U.S. sugar prices.

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

WORLD SUGAR PRODUCTION, PRICE, STOCKS AND CONSUMPTION

	World production (million metric tons)	Annual change (percent)	World price (cents per pound)	Annual change (percent)	End stocks (million metric tons)	Annual change (percent)	World consumption (million metric tons)	Annual change (percent)
1951	33.4		5.67		[1]	[1]	33.0	
1952	36.2	8.4	4.17	−26.8	[1]	[1]	33.5	1.5
1953	38.4	6.1	3.41	−18.2	[1]	[1]	36.4	8.7
1954	37.5	−2.3	3.26	−4.4	[1]	[1]	37.8	3.8
1955	39.0	4.0	3.24	−.6	[1]	[1]	38.7	2.4
1956	40.3	3.3	3.47	7.1	[1]	[1]	41.8	8.0
1957	44.0	9.2	5.16	48.7	[1]	[1]	42.5	1.7
1958	47.0	6.8	3.50	−32.2	[1]	[1]	45.0	5.9
1959	49.6	5.5	2.97	−15.1	[1]	[1]	46.4	3.1
1960	52.1	5.0	3.14	5.7	[1]	[1]	48.8	5.2
1961	54.8	5.2	2.70	−14.0	[1]	[1]	53.2	9.0
1962	51.6	−5.8	2.78	3.0	[1]	[1]	53.6	.8
1963	52.6	1.9	8.34	200.0	[1]	[1]	53.3	−.6
1964	60.1	14.3	5.77	−30.8	[1]	[1]	55.8	4.7
1965	65.0	8.2	2.02	−65.0	[1]	[1]	60.2	7.9
1966	64.1	−1.4	1.81	−10.4	[1]	[1]	61.1	1.5
1967	66.4	3.6	1.92	6.1	[1]	[1]	63.1	3.3
1968	66.8	.6	1.90	−1.0	[1]	[1]	66.3	5.1
1969	69.6	4.2	3.20	68.4	33.0		68.4	3.2
1970	72.9	4.7	3.68	15.0	32.5	−1.5	72.1	5.4
1971	74.0	1.5	4.50	22.3	37.6	15.7	74.4	3.2
1972	75.7	2.3	7.27	61.6	30.7	−18.4	76.0	2.2
1973	75.8	.1	9.45	30.0	30.0	−2.2	76.3	.4
1974	76.4	.8	29.66	213.9	28.3	−5.7	77.3	1.3
1975	78.9	3.3	20.37	−31.3	32.4	14.5	74.5	−3.6
1976	82.5	4.6	11.51	−43.5	36.7	13.3	79.3	6.4
1977	90.4	9.6	8.10	−29.6	43.6	18.8	82.6	4.2
1978	90.6	.2	7.81	−3.6	44.8	2.8	86.2	4.4
1979	89.2	−1.5	9.65	23.6	43.2	−3.6	89.9	4.3
1980	84.4	−5.4	28.66	197.0	39.7	−8.1	87.5	−2.7
1981 (forecast)	92.0	9.0	16.80	−41.4	39.7	0	92.0	5.1

[1] Not available.

Source: ISO Yearbook data as reported by F. O. Licht.

PAST U.S. SUGAR PROGRAMS HAVE KEPT U.S. PRICE WELL ABOVE WORLD PRICE—COMPARISON, AVERAGE YEARLY UNITED STATES VERSUS WORLD RAW SUGAR PRICES, 1933–74

	Average yearly U.S. raw sugar price[1]	Average yearly world raw sugar price (cents per pound)	U.S. price over world price
Calendar year:			
1974	27.4868	29.5976	−2.1108
1973	8.9089	9.5930	−.6841
1972	7.9803	7.4053	.5750
1971	7.3912	4.5219	2.8693
1970	6.9404	3.7542	3.1862
1969	6.7492	3.3708	3.3784
1968	6.5394	1.9790	4.5604
1967	6.3179	1.9920	4.3259
1966	6.0297	1.8579	4.1718
1965	5.7951	2.1177	3.6774
1964	5.9780	5.8631	.1149
1963	7.2818	8.4815	−1.1997
1962	5.5630	2.9671	2.5959
1961	5.3556	2.9129	2.4427
1960	5.3502	3.1407	2.2095
1959	5.3485	2.9671	2.3814
1958	5.4131	3.4980	1.9151
1957	5.3062	5.1589	.1473
1956	5.0945	3.4666	1.6279
1955	4.9963	3.2384	1.7579
1954	5.2072	3.2602	1.9470
1953	5.4237	3.4098	2.0139
1952	5.3532	4.1658	1.1874
1951	5.0699	5.6733	−.6034
1950	5.0878	4.9751	.1127
1949	5.3072	4.1574	1.1498
1948	5.04507	4.220675	.824395
1947	5.44766	5.03	.41766
1946	4.2219	4.24	−.018
1945	3.4225	3.14	.2825
1944	2.99	2.99	0
1943	2.99	2.99	0
1942	2.99	2.99	0
1941	2.4777	1.8491	.6286
1940	1.8859	1.326	.5599
1939	1.9049	1.5894	.3155
1938	2.0356	1.1403	.8953
1937	2.5426	1.3193	1.2233
1936	2.6945	1.0147	1.6798
1935	2.3358	.9991	1.3317
1934	1.4990	1.0402	.4593
1933	1.2195	.9671	.2524

[1] C.I.F. basis New York, excluding duty.

Mr. QUAYLE. The Quayle-Tsongas amendment does nothing to harm our ability to counter any unfair trading practices—we still have the normal recourse to GATT and to countervailing duties that any other product has—in fact, we already have countervailing duties in effect against EEC sugar. We do not import EEC sugar anyway.

Many other U.S. products would certainly enjoy outright price-support guaranties to protect them from foreign competition, but they have to rely on GATT and other foreign trade methods of recourse.

The EEC program is only one of many causes of low world sugar prices: Consider that first, U.S. import quotas themselves have cut U.S. imports by 2 million tons, which is over 10 percent of the "free market in world sugar" as defined by the sugar supporters; since quotas went into effect, the price of world sugar has declined by over 30 percent. Second, good harvests throughout the world have led to oversupply and low prices; third, decline in demand for sugar because of increased competition from corn sweeteners has helped to reduce prices. In the United States alone, corn sweetener usage has caused demand for sugar to fall by about 3 million tons per year, almost 15 percent of the free market in sugar.

In short, the EEC program is only the latest excuse for the domestic sugar industry to demand protection. I know of no other product that demands a price guaranty 300 percent higher than the prevailing free-market price. Sugar industry has been protected since the 1890's.

Such protectionism is likely to hurt other U.S. industries, especially agriculture, which export to sugar-producing areas. The United States exports over $9 billion per year to the EEC in agricultural products, and over $2.5 billion in feed grains alone to the 10 leading sugar exporting nations outside the EEC. Both the EEC and the members of the International Sugar Agreement (ISA) have lodged bitter complaints with the United States over its sugar program.

I ask unanimous consent to put in the RECORD a resolution adopted by sugar-exporting nations of the ISA, and articles relating to the foreign response to U.S. sugar import quotas.

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

FOURTEENTH SESSION OF THE COUNCIL—MAY 21, 1982

DECLARATION BY THE EXPORTING MEMBERS

1. The exporting members of the International Sugar Organization make the following declaration regarding the Proclamation of May 5, 1982 by the President of the United States of America in respect of the "Modification of Quotas on Certain Sugars, Syrups and Molasses".

2. It is the opinion of the exporting members that the limitations being created jointly by this Proclamation, by means of fixing import quotas, and the Sugar Title Provisions of the U.S. Agriculture and Food Act 1981 are inconsistent with objectives of the International Sugar Agreement, 1977, among which the following can be mentioned: To raise the level of international trade in sugar, particularly in order to increase the export earnings of developing exporting countries (Article 1(a)); and to provide for adequate participation in, and growing access to, the markets of the developed countries for sugar from the developing countries (Articles 1(g)).

3. It is also the opinion of the exporting members that the above mentioned limitations by means of fixing import quotas may breach both the provisions contained in Chapter XIII of the Agreement regarding Additional Obligations and Undertakings of Members, and the Provisions of the Agreement regarding measures to encougage consumption. Amongst these provisions can be mentioned specifically those contained in Article 56(1), Article 58, and Article 65(1).

4. More generally, exporting members are concerned inter alia about the negation of cooperation among member countries in order to attain the objectives of the Agreement; the limitation of access by sugar exporting members to the U.S. market; and the additional obstacle to increased sugar consumption.

5. For these reasons exporting member countries express their profound regret that the United States has found it necessary to introduce import quotas for sugar.

6. In addition, they express their strong concern that fees continue to be imposed on sugar imports into the United States.

7. These matters are of exceptional importance for the exporting members and consequently they have decided to bring them to the Council so that subsequent discussions may be held between the exporting members and the United States of America.

8. To this effect the exporting members request that the Executive Director convenes as a matter of urgency a meeting of the interested parties to examine this issue.

EEC CONSIDERS GATT COMPLAINT ON U.S. SUGAR QUOTA

(By Philip Stephens)

LUXEMBOURG, June 15.—The EEC is considering lodging a complaint with the General Agreement on Tariffs and Trade (GATT) over the recent U.S. decision to impose sugar import quotas, diplomatic sources said.

No final decision has been taken, but trade experts from the EEC Commission and member states have already discussed the possibility of a move which the diplomats said would mark an escalation in the transatlantic row over farm trade.

The issue was debated in the EEC's "113" Committee of Trade experts last Friday, when it was agreed that further studies should be made, the sources said.

The Commission and some of the EEC's 10 member governments were inclined to favor the lodging of a complaint, they added.

A spokesman for the EEC Commission confirmed that some experts believed U.S. sugar legislation was not in conformity with GATT rules. In particular, the combination of import duties and quotas was apparently open to legal challenge, he said.

President Reagan introduced sugar import quotas in May after complaints that imports were undermining the U.S. sugar support price program.

The diplomats said EEC sugar was not affected by the quotas, since the community does not traditionally sell to the United States.

A GATT complaint would thus be more of a political gesture of annoyance with Washington, which is strongly critical of the EEC's farm policies. The United States is pursuing several complaints in GATT over EEC farm subsidies, including export refunds for sugar.

The diplomats could not predict when a final decision on whether to lodge a complaint would be taken and said there was as yet no final definition of which articles of GATT were applicable.

Talks between Washington and Brussels on the U.S. complaint against EEC sugar export subsidies are still going on and the United states was deferred until September a decision on whether to call a GATT panel to examine the case, they said.

One possible solution to the two disputes would be for both sides to agree to a truce and decide not to pursue the issues, the diplomats said.

DOMINICAN REPUBLIC CHIEF HITS U.S. OVER SUGAR

SANTO DOMINGO, August 2.—Dominican Republic President Jacobo Majutla criticized the United States and the European Community for depressing the world market for sugar, the Republic's main export.

He said that recently-imposed U.S. sugar import quotas, combined with "subsidized dumping of common market sugar," will result in a multimillion-dollar reduction of foreign exchange income for Dominican Republic.

Majutla told delegates at a political party meeting here that the U.S. quotas, imposed last may, were counter in spirit to the Regan administration's stated policy of cooperating with Caribbean countries.

Mr. QUAYLE. Mr. President, the interest of time, and I hope we can adjust—if the Senator from Kansas wants to table the Quayle-Tsongas amendment, that is perfectly fine. I do hope my good friend from Louisiana, Senator JOHNSTON, will be willing to take down his amendment because I am willing to move forward to get a vote on the sugar amendment, whether it is this way or another way. I do not care.

In the interest of time, Mr. President, I want to move this along accordingly, with the understanding that the motion to table will just be on the Quayle amendment, and if the Senator from Kansas wants to offer that, perhaps we could move it along.

Mr. DOLE. If I might suggest the absence of a quorum, I understand what the Senator from Indiana has in mind. He does not mind the tabling motion so long as it is just on the sugar amendment. But if, in fact, it is on the sugar amendment with the busing amendment, then the Senator intends to offer another sugar amendment.

Mr. QUAYLE. We will be back. We will vote on a tabling amendment, but before we go home, we are going to vote on the sugar matter. I do not care what shape it takes; I am committed to having that vote. I would think in all decency and fairness that we ought to be allowed to vote on it. There has been a lot of discussion on the sugar bill, a lot of lobbying on both sides of this issue. Senators are well informed on the issue, and to just sort of play games and be a little silly right now, I just do not think does anybody any good. I hope we can work out a quorum call, and I am willing to cooperate. I have cooperated with the majority leader since the latter part of June on this issue.

The distinguished chairman of the Finance Committee knows that we have been working for 2 months to get this up. I think this is not being fair to the Senator from Indiana.

Mr. DOLE. Mr. President, if the Senator will yield, I want to confirm what the Senator just indicated. He has been very patient. We have been talking about this amendment for some time, and I think there is no question about it but that Members are familiar with the amendment—they are familiar with the issue. There are literally, I guess, two dozen Senators who would like to speak at length in opposition to the Quayle amendment. Certainly that is their right.

I guess it would be fair to say that if, in fact, the motion to table is not agreed to we could just assume we are going to be discussing sugar until September 30 at midnight until the debt ceiling passes. A week is not too long to spend on sugar.

But it may be that the distinguished Senator from Louisiana, Senator JOHNSTON, might withdraw the busing amendment to give us a clear vote on the tabling of the sugar amendment. Would that be possible?

Mr. JOHNSTON. Mr. President, I was most anxious to bring up the busing amendment and I thought as a substitute to the Quayle amendment would be a good way to do it. But it can be done later.

I say, not really with tongue in cheek, that if anything passes as part of this debt limit increase, the Senate will get a chance to vote on busing. Frankly, as much as I would like for busing to be voted on again and attached to this, everybody knows that we are not going to be able to get any other amendments attached. That is what this exercise was about that we just went through; that is, sending it back to the committee and reporting it back.

So while I am anxious to get a vote, I understand that nothing is going to be able to be attached.

Mr. LONG. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. LONG. May I suggest to the Senator that if the Quayle amendment should be agreed to, I would urge my colleague strongly to insist on his busing amendment. It is all right with me if he wants to permit it to be withdrawn at this time, but I hope he will do that without prejudice and he can bring it up later on.

Mr. JOHNSTON. Of course, it would be absolutely without prejudice.

Mr. SYMMS. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. SYMMS. Mr. President, I say to my friend from Louisiana that I would note that if he does withdraw his busing amendment and if for some reason, which I hope does not happen, we are not successful in tabling the Quayle-Tsongas amendment, the Senator from Idaho has a substitute amendment that is germane to this sugar debate. My subtitute amendment addresses the real problem which is European subsidies and the dumping of surplus sugar on the markets of the world, it is these factors that depress the American sugar producers' ability to compete on equal terms with heavily subsidized international producers. It would be pertinent to the Quayle amendment and he would not feel his effort is being jeopardized by nongermane amendments.

Mr. JOHNSTON. Mr. President, I do not mean to make light of a serious subject. We regard sugar very seriously in Louisiana, so seriously we do not intend to have that pass before this debt limit is passed. I think that is perfectly plain to everybody. So, in that spirit, Mr. President, I move to withdraw the pending Johnston amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Louisiana. I think that accommodates the request of the distinguished Senator from Indiana, Senator QUAYLE.

Mr. QUAYLE. Yes. it does. I thank my spirited companion for withdrawing his amendment. I have put my statement in the RECORD responding to a couple of these issues to accommodate the majority leader and the chairman of the committee. I yield to the chairman.

Mr. DOLE. I thank the Senator from Indiana for his patience over the last several weeks and several months.

Again, I would only say that if this amendment is not tabled I just assume we will be discussing sugar now until September 30. Because I have been approached by a number of my colleagues wanting to discuss this at length, some who are for the amendment and some who are opposed to the amendment.

So, in the spirit of trying to accommodate the Federal Government, I move to table the Quayle amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas (Mr. DOLE) to table the amendment of the Senator from Indiana (Mr. QUAYLE). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GOLDWATER (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from Wyoming (Mr. WALLOP). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. RUDMAN), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Alabama (Mr. HEFLIN), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the

Senator from Tennessee (Mr. SASSER) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The results were announced—yeas 60, nays 31, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—60

Abdnor	Durenberger	Laxalt
Andrews	East	Levin
Armstrong	Exon	Long
Baker	Ford	Mathias
Baucus	Glenn	Matsunaga
Bentsen	Gorton	McClure
Biden	Grassley	Metzenbaum
Boren	Hart	Murkowski
Boschwitz	Hatfield	Packwood
Burdick	Hawkins	Pressler
Byrd, Robert C.	Hayakawa	Riegle
Cannon	Helms	Sarbanes
Chiles	Hollings	Simpson
Cochran	Huddleston	Stennis
Cranston	Inouye	Stevens
Danforth	Jackson	Symms
DeConcini	Jepsen	Thurmond
Dixon	Johnston	Tower
Dole	Kassebaum	Warner
Domenici	Kennedy	Zorinsky

NAYS—31

Bradley	Hatch	Percy
Brady	Heinz	Proxmire
Bumpers	Humphrey	Pryor
Byrd, Harry F., Jr.	Kasten	Quayle
Chafee	Leahy	Randolph
Cohen	Lugar	Roth
D'Amato	Mattingly	Schmitt
Denton	Mitchell	Specter
Eagleton	Nickles	Stafford
Garn	Nunn	Tsongas
	Pell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Goldwater, against.

NOT VOTING—8

Dodd	Moynihan	Wallop
Heflin	Rudman	Weicker
Melcher	Sasser	

So the motion to lay on the table amendment No. 2016 was agreed to.

Mr. BAKER. Mr. President, are there further amendments?

Mr. DOLE. Mr. President, we are checking with the distinguished Senator from Colorado. I know he has indicated to Senator JACKSON that he did not intend to offer his amendment, and we should know that in about 1 minute.

Mr. GOLDWATER addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, just from a point of interest, I should like to ask the leader if there is any chance that any amendment is going to get through? In other words, are we not going to table everything that comes up?

Mr. BAKER. Mr. President, if the Senator will yield to me, that is our intention.

I am advised now that the Senator from Colorado will not offer an amendment. I know of no other amendment, and I ask the Chair to inquire if there are further amendments.

The PRESIDING OFFICER. Are there further amendments?

Mr. DOLE. Third reading.

The PRESIDING OFFICER. If not, the bill will be read the third time.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GOLDWATER. Will the Senator suspend on that for one moment?

I did not get an answer to my question. If we are going to do nothing but table amendments, I do not see that anything is gained by hanging around here.

Mr. BAKER. Mr. President, I think there is only one other base that needs to be touched. I think there is a 99 percent possibility that we are right on the brink of getting a final passage vote.

As soon as I get word from the other side, as soon as we have completed that inquiry, I believe we will be able to go.

Mr. DOLE. If we pass the debt ceiling.

Mr. BAKER. Mr. President, it is going to take just a minute or so to check this, but I urge Senators to believe that there is a good possibility we can finish this thing right away.

Mr. President, I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I indicated at an earlier point today that I felt it important that we deal with the subject of disability benefits.

I also indicated at that time that it was my understanding and hope that the chairman of the Finance Committee intended to move with respect to this subject, maybe not move as far as the Senator from Ohio thinks that he should, but he does intend to deal with the subject as soon as he possibly can in the Finance Committee.

I wonder if the Finance Committee chairman would be good enough to respond as to his intentions on this subject.

Mr. DOLE. Mr. President, if the Senator will yield, there was a bill introduced today by the distinguished Senator from Maine (Mr. COHEN), the distinguished Senator from Michigan (Mr. LEVIN), I think Senator METZENBAUM, Senator ARMSTRONG, myself, and others, that will address some of the concerns expressed by a number of Senators. It is my hope that we can meet in the Senate Finance Committee tomorrow on other matters and consider this legislation, bring it to the floor and, under some unanimous-consent arrangement or a time agreement, pass it.

Now, it does not go as far as the distinguished Senator from Ohio would like. I understand an amendment may be offered in the committee tomorrow by Senator HEINZ. We are now looking at that amendment, and so the Senator is correct.

Mr. METZENBAUM. I thank the Senator from Kansas.

The Senator from Kansas has been fair and considerate in what he has attempted to do in the past. Under the circumstances, I think it only might confuse the issue if the Senator from Ohio offered an amendment at this point. I am hopeful the Senator from Kansas will go as far as he can in that legislation.

I thank the Senator.

The PRESIDING OFFICER. Are there other amendments?

The Senator from Tennessee, the majority leader, is recognized.

Mr. BAKER. Mr. President, I understand that the distinguished Senator from Colorado has brief remarks that he wishes to make. It is also my understanding he does not intend to offer an amendment. But he is on his way to the floor at this time. If any other Senator is seeking recognition, I will yield for that purpose; otherwise, I will suggest the absence of a quorum.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAKER. Mr. President, I am advised now that the clearing process is complete on the other side of the aisle. I am prepared to say I know of no other amendments.

I ask the Chair to inquire if there are further amendments.

The PRESIDING OFFICER. If there are no further amendments, the joint resolution will be read the third time.

Mr. ROBERT C. BYRD. Mr. President, I am responding to the distinguished majority leader. The clearance process has been completed on this side and, to his delight, there are no further amendments.

Mr. BAKER. It is a delight indeed, and I thank the minority leader.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

● Mr. DANFORTH. Mr. President, I regret being in a position where I had to vote to table the Quayle-Tsongas amendment. Last year, during Senate consideration of the farm bill, I voted against the creation of a new price-support program for sugar. At a time when other support programs for agricultural commodities are being cut, it seems irresponsible that we should be erecting new programs at the expense of the consumer or taxpayer.

However sympathetic I am to this amendment—and I am highly sympathetic—it seems clear to all of us that it will never be allowed to see the light of day in this Congress.

For the past 4 weeks we have been debating amendments not germane to the business at hand, namely, the passage of the debt ceiling bill that we all know must be passed and must be passed without amendment by the end of the week.

Therefore, I felt that the only responsible course of action was to join those voting to table this amendment.●

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, it is clearly the desire of the Senate to dispose of this matter and move on to other and perhaps more interesting tasks, and I will only detain my colleagues a moment.

I regret the way this has worked out. The effect of it is that we really have not had a fair shot at anything. We did not get a vote on the prayer amendment. We did not get a vote on the abortion amendment. Senator QUAYLE did not get a vote on the sugar amendment. The 300 other amendments that were pending did not get voted on. And so we end really this whole debate with everybody, I guess, a bit unsatisfied.

The Senate Finance Committee met to consider the substance of this bill—I mean the real substance of it, not the other amendments that could be added on to it as ornaments—and, after making that consideration, proposed some amendments for consideration of the Senate. Those have also been stripped out, and we are left really with just the bare proposition of whether or not we want to increase the amount of the public debt by $150 billion.

In my judgment, there is not a single thing about this bill that commends itself to passage at this point. It is just $150 billion more borrowing.

I have not kept track exactly, but I believe this is about the 20th time I have voted on this issue.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Colorado will please proceed.

Mr. ARMSTRONG. On every occasion that I can recall when this matter has come before the Senate for consideration, the issue has finally come down to this, that somebody stands up and yells, "Look, we have got to do this. The House has passed it. The deadline is near. We may not like it but we have no choice."

My friends, we do have a choice. Even now, after all that has happened, we do have a choice, and the choice is to vote this bill down. It is a bad bill. I do not believe there is any Senator who can stand up before us today and say that, if we pass this, the country is going to be better off; that our economy is going to be stronger; that the taxpayers will be well served; that the consumer will be better off, or that in any way our country's economy is going to be improved by the passage of this bill. So if we defeat it, we would then set the stage for one of two things to happen, in my judgment: the passage of a more moderate bill, a lower total bill, a bill which would have a shorter expiration time or preferably, in my view, a bill which would incorporate the necessary increase in the debt limit and to that some reforms.

When are we going to put in the reforms so that a year from now we are not back raising the debt limit again?

One comment about that: Presumably, what we have here is a 1-year extension. The amount purports to be a 1-year extension, but we will never get through anything like a year because we have not enacted the reforms necessary to curtail spending, so we will be back a lot sooner than a year to again raise this debt limit.

Mr. President, I mentioned earlier the possibility of my proposing one or two amendments. On one of those amendments, which contains the kind of discipline and reform which I believe are urgently needed, I am not the chief sponsor but the cosponsor, and the chief sponsor deems it not wise to offer it at this time, and I defer to his judgment.

On the second amendment, which is a sense-of-the-Senate resolution, it is equally timely to be offered to another bill; so whatever bill we have up tomorrow, I will offer it again and accommodate myself to the obvious desire of the Senate to bring this matter to a conclusion.

With that word of explanation, I suggest that any Senator who feels as I do, that this is a bad deal, should vote "no."

Mr. GOLDWATER. Amen.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (when his name was called). Mr. President, on this vote I have a live pair with the junior Senator from Tennessee (Mr. SASSER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from New Hampshire (Mr. RUDMAN), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Tennessee (Mr. SASSER), are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. MELCHER), would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 354 Leg.]

YEAS—50

Abdnor	Durenberger	Lugar
Andrews	Eagleton	Mathias
Baker	Garn	Matsunaga
Bentsen	Gorton	Murkowski
Boschwitz	Hatch	Packwood
Bradley	Hatfield	Percy
Brady	Hayakawa	Quayle
Burdick	Heinz	Roth
Chafee	Inouye	Schmitt
Cochran	Jackson	Specter
Cohen	Johnston	Stafford
Cranston	Kassebaum	Stennis
D'Amato	Kasten	Stevens
Danforth	Kennedy	Thurmond
Denton	Laxalt	Tower
Dole	Levin	Tsongas
Domenici	Long	

NAYS—41

Armstrong	Glenn	Metzenbaum
Baucus	Goldwater	Mitchell
Biden	Grassley	Nickles
Boren	Hart	Nunn
Bumpers	Hawkins	Pressler
Byrd, Harry F., Jr.	Heflin	Proxmire
	Helms	Pryor
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Riegle
Chiles	Humphrey	Sarbanes
DeConcini	Jepsen	Simpson
East	Leahy	Symms
Exon	Mattingly	Warner
Ford	McClure	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, for.

NOT VOTING—8

Dixon	Moynihan	Wallop
Dodd	Rudman	Weicker
Melcher	Sasser	

So the joint resolution (H.J. Res. 520) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight.

ORDER OF PROCEDURE ON TOMORROW

Mr. BAKER. Mr. President, if I can have the attention of the Senate, I would like to have a colloquy with the minority leader about the schedule for tomorrow.

I am advised that the first of 13 regular appropriation bills is now on the calendar and qualifies for Senate action. It will be my intention then to ask the Senate to proceed to the consideration of that item tomorrow. I ask the minority leader if there is any objection on his side to that procedure?

Mr. ROBERT C. BYRD. Let me have a moment to clear it.

Mr. BAKER. All right.

Mr. President, I understand a time agreement may be possible on that measure. I would also inquire if the minority leader would be willing to explore that possibility as well.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Senator.

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

Mr. BAKER. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, the conference report on the reclamation bill is ready for consideration. I hope we will be able to move that on tomorrow as well.

Mr. BAKER. I thank the Senator. I have discussed this previously with the Senator from Idaho and also with the Senator from Ohio and the Senator from Washington. It is my understanding that we came perilously close to getting a time agreement on that, as well. It fell through. The conference report, of course, is a privileged matter and it would be my intention to ask the Senate to turn to that some time after we do the HUD appropriation bill tomorrow if it is available and if the parties are generally agreeable to proceeding.

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

Mr. BAKER. Yes, but let me yield next to the minority leader.

Mr. ROBERT C. BYRD. The HUD appropriation bill is available.

Mr. BAKER. Mr. President, I understand the Senator to say that the HUD appropriation bill is now available from his point of view.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it convene at 9 a.m. tomorrow.

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

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order four Senators be recognized on special orders of not to exceed 15 minutes each: Senators GRASSLEY, NUNN, EAGLETON, and BRADLEY, in that order.

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

ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent after the execution of the special orders that there be a time for the transaction of routine morning business of not to exceed 5 minutes in length in which Senators may speak for not more than 1 minute each.

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

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 6956 ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at the close of morning business the Senate turn to the consideration of Calendar Order 804, H.R. 6956, the HUD appropriations bill.

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

Mr. BAKER. Mr. President, I would say for the advice of Senators that after we finish the HUD appropriations bill it will be my hope we could go to the reclamation conference report. That will not take too long. I will now yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. The Senator has indicated to the majority leader that he has no objection to going to the reclamation conference report nor considering it under a time limit. I would hope, however, as a matter of consideration that if the HUD bill goes beyond, say, 2 p.m. that it would not be the intention of the majority leader to bring it up at that time. I would be perfectly willing to enter into a time agreement for early in the morning or before 2 p.m.

Mr. BAKER. Mr. President, I understand the Senator and I understand fully what he means and I appreciate his point of view. In view of that I will not ask to sequence the conference report at this time but merely announce that it will be may hope that we can proceed to it after the HUD appropriations bill.

Mr. METZENBAUM. The Senator from Ohio will see how long the HUD bill takes, at which time he will make a determination as to how to proceed. I have no desire to delay consideration of the matter.

Mr. BAKER. I understand. I thank the Senator.

Mr. EXON. Mr. President, reserving the right to object, may I inquire of the majority leader, since it appears that the reclamation bill could be disposed of in rather short order with a time agreement, could we not enter into an agreement here now and have that the first order of business ahead of the other matter?

Mr. PROXMIRE. Mr. President, I object to any time agreement. I expect to speak, not at great length, but at some length on it. I will not agree to a time limit until I have finished and then I might possibly agree. But it will not be until after we have some debate on the reclamation bill. I am very strongly opposed to it and I am going to make my position as clear as I can.

Mr. BAKER. Mr. President, if I may say so, I think it is time to drop this subject and move on to something else. I say to my friend from Nebraska, let me work on that and see how we get along.

Mr. EXON. I thank the majority leader.

Mr. BAKER. Mr. President, I also wish to announce that it is my hope that we will have the banking bill available to do tomorrow. Now, this sounds like a lot. It is a lot. It will be a major accomplishment if we can do all three of these things, but I believe it is possible based on the preliminary inquiries. I think that there is a strong possibility that some of these bills can be disposed of without a great length of time and before very late tomorrow afternoon.

I yield now to the Senator from North Carolina.

Mr. HELMS. Mr. President, I wish to ask the majority leader a question. The debt limit bill, which just pased the Senate, was stripped of the amendment involving or relating to the Senate gymnasium. I wonder if the Senator has some plan in that regard.

Mr. BAKER. Yes, Mr. President, I do. The minority leader mentioned that earlier and made a statement with which I fully agree. The amendment on the Senate gymnasium to prevent its completion as a gymnasium was offered, as you know, by the two leaders. It is with great regret that it went down the tube along with the rest of the amendments. But the minority leader suggested, and I agree, that he and I will join in a letter to the Architect instructing the Architect not to go forward with that construction.

I am willing, and I am sure the minority leader is also, to offer the identical amendment to another bill as that becomes available and before we go out for the October break.

Mr. HELMS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I join the majority leader in what he has just said.

Mr. BOSCHWITZ. Mr. President, does the majority leader expect there will be a time agreement on the banking bill?

Mr. BAKER. Yes, I hope so. As I indicated earlier, I hope to do the banking bill tomorrow. I understand that negotiations are now underway and that there is a hopeful outlook that we might be able to get a time agreement on the banking bill. I hope to do that in the morning, to get the time agreement.

Mr. ARMSTRONG. Mr. President, is the majority leader seeking a time agreement on the HUD appropriations bill?

Mr. BAKER. Yes. I have one. We have not yet completed a clearance, but there is a good possibility we will get an hour on the bill and 30 minutes on first-degree amendments and 30 minutes on second-degree amendments and also that the agreement will be in the usual form and perhaps there would not be any measure dealing with the Clean Air Act or regulations in respect thereto offered to it.

Mr. ARMSTRONG. I would like to be consulted about that.

Mr. BAKER. Mr. President, as long as we are talking about the schedule, I might say that the list I have given is, by no means exclusive. Once again, the must items are the debt limit, which we now passed, and the appropriation process. I expect to get the continuing resolution here and ask the Senate to turn to its consideration either on Tuesday or Wednesday, depending on circumstances. There will be other appropriation bills that will be available and we will do them as we can.

In addition to that, to name a few, but they are only ones that come to mind, there is the shipping bill, there is the crime bill, there is the bankruptcy extension renewal, there is the coastal barrier islands bill, and the Alaska railroad bill. I prefer not to go on because of the depressing effect it has on my psyche.

Mr. President, I would say once again that tomorrow will be a busy day. I hope that tomorrow we can finish the HUD appropriations bill, the conference report on the reclamation bill, and the banking bill.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, the time agreement on the appropriation bill is cleared.

Mr. BAKER. Mr. President, at the request of a Senator, and it is a legitimate request, I will not now put a request on the HUD appropriations bill, but I do intend to try to do that tomorrow if we can work it out. I thank the minority leader for his statement and we will try very diligently to get it cleared on our side.

Mr. President, I know of no further business to transact by the Senate today.

Mr. CHAFEE. Mr. President, I am ready to go with the coastal barrier bill.

Mr. BAKER. Mr. President, there is one bill that is cleared for action by, I believe, unanimous consent, the coastal barrier bill. If the minority leader has no objection to that, I will yield the floor so the Senator may manage that measure.

Mr. ROBERT C. BYRD. No objection.

COASTAL BARRIER RESOURCES ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1018, Calendar Order No. 601, the Coastal Barrier Resources Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1018) to protect and conserve fish and wildlife resources, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee?

There being no objection, the Senate proceeded to consider the bill (S. 1018), which had been reported from the Committee on Environment and Public Works with amendments, as follows:

On page 4, strike line 1, through and including line 6, and insert the following:

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistnce other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

On page 5, line 9, strike ", consecutively", through and including line 10, and insert "and dated April 28, 1982";

On page 6, line 9, strike "Within", through and including line 19, and insert the following:

(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may, in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), and the public, make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units. The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications, submit written notice of such modification to each of the committees.

(2) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) of this section and make such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

On page 7, line 14, after "Act", insert "and section 341 of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35)";

On page 7, line 24, after the semicolon, insert "and";

On page 8, line 4, strike "and property on lands and waters,", and insert "land and property";

On page 8, line 5, strike "and";

On page 8, strike line 6, through and including line 10;

On page 8, line 24, strike "after consultation with the Secretary", and insert "after providing written notification to the Secretary";

On page 9, strike "development, production,", and insert "extraction,";

On page 9, line 10, strike "spoils", and insert "material";

On page 9, strike line 23, through and including line 25, and insert the following:

(iii) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects related to these habitats, and recreational projects.

On page 10, line 18, after "(4103)", insert "and are limited to actions that are necessary to alleviate the immediate emergency.";

On page 10, after line 25, insert the following:

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

On page 11, after line 9, insert the following:

(c) The notificaiton to the Secretary referred to in subsection (a) of this section shall describe the purposes and amount of the expenditure or assistance.

On page 11, line 22, strike "STATE";

On page 11, line 24, strike "occupy", through and including "of" on line 25, and insert "chamge and existing relationship of other Federal laws to";

On page 12, beginning on line 2, strike "on the same subject matter";

On page 12, after line 9, insert the following:

This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

On page 12, line 19, strike "REPORTS", and insert "REPORT";

On page 12, line 20, strike "(1)"

On page 12, line 23, strike "not less than one-third";

On page 12, strike line 24, through and including page 13, line 6;

On page 13, line 7, strike "REPORTS", and insert "REPORT";

On page 13, line 8 strike "reports", and insert "report";

On page 13, line 12, strike "Each", and insert "The";

On page 13, line 13, strike "each", and insert "the";

On page 13, strike line 15, through and including line 18;

On page 13, strike "(2)", and insert "(1)";

On page 13, line 20, strike "unit", and insert "system";

On page 14, strike line 4, through and including line 22;

On page 14, line 23, strike "(1)", and insert "(2)";

On page 15, line 3, strike "(2)", and insert "(3)";

On page 15, line 9, strike "each", through the end of the bill, and insert "the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 10".

So as to make the bill read:

S. 1018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) habitats which are essential spawning, nursery, nesting, and feeding areas for migratory birds, aquatic organisms, and other wildlife are provided within the coastal barriers along the Atlantic and gulf coasts of the United States and the adjacent wetlands, marshes, estuaries, inlets, and near shore waters;

(2) these fish and wildlife resources and their habitats are being irretrievably damaged and lost due to development on, among, and adjacent to, such coastal barriers;

(3) certain actions and programs of the Federal Government have subsidized and encouraged such development; and

(4) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of fish and wildlife resources and habitats within the coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and gulf coasts by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing a Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and near shore waters.

(2) The term "committees" refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "System unit" means any coastal barrier, or combination of closely related coastal barriers, included within the Coastal Barrier Resources System established by section 4 of this Act.

SEC. 4. THE COASTAL BARRIER RESOURCES SYSTEM.

(a) ESTABLISHMENT.—(1) There is established the Coastal Barrier Resources System which shall consist of those undeveloped coastal barriers located on the Atlantic and gulf coasts of the United States that are identified and generally depicted on the maps that are entitled "Coastal Barrier Resources System" and dated April 28, 1982.

(2) A costal barrier was treated as an undeveloped coastal barrier for purposes of paragraph (1) only if there were few man-made structures on the barrier and these structures, and man's activities on the barrier, did not significantly impede geomorphic and ecological processes.

(3) A coastal barrier which was included within the boundaries of an area established under Federal, State, or local law or held by a qualified organization (as defined in paragraph (3) of section 170(h) of the Internal Revenue Code of 1954), primarily for wildlife refuge, sanctuary, or natural resource conservation purposes was not included within the Coastal Barrier Resources System.

(b) AVAILABILITY OF MAPS.—(1) The maps referred to in paragraph (1) of subsection (a) shall be available for public inspection at the offices of the United States Fish and Wildlife Service in the District of Columbia and in other appropriate offices of the Service.

(2) Within sixty days after the date of the enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to the chief executive officer of (A) each State and political subdivision in which a System unit is located, and (B) each affected Federal agency.

(c) BOUNDARY MODIFICATIONS.—(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may, in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), and the public, make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units. The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications, submit written notice of such modification to each of the committees.

(2) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) of this section and make such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in section 6 of this Act and section 341 of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35), no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet or shoreline, except in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for the purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

SEC. 6. EXCEPTIONS.

(a) Notwithstanding section 5 of this Act, the appropriate Federal officer may, after providing written notification to the Secretary, make Federal expenditures or financial assistance available for the following purposes within the Coastal Barrier Resources System:

(1) The exploration, extraction, or transportation of energy resources which can only be carried out on, in, or adjacent to coastal water areas.

(2) The maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements.

(3) Military activities essential to national security.

(4) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(i) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(ii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8).

(iii) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabiliza-

tion projects related to these habitats, and recreational projects.

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives or the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the immediate emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(vii) Nonstructural projects for shorelines stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of paragraph (2) of subsection (a), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure were appropriated before the date of the enactment of the Act.

(c) The notification of the Secretary referred to in subsection (a) of this section shall describe the purposes and amount of the expenditure or assistance.

SEC. 7. CERTIFICATION OF COMPLIANCE.

The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

SEC. 8. PRIORITY OF LAWS.

Nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State or local law unless there is a direct and positive conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, perserve, and restore lands within its established boundary.

SEC. 9. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 10. REPORT TO CONGRESS.

(a) IN GENERAL.—Before the close of the three-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the committees a report regarding the System.

(b) CONSULTATION IN PREPARING REPORT.—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) REPORT CONTENT.—The report required under subsection (a) shall contain, with respect to the System unit covered in the report—

(1) recommendations for the conservation of the fish, wildlife and other natural resources of the system based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System) and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units; and

(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the System units covered in the report.

SEC. 11. AUTHORIZATIONS OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 10.

Mr. CHAFEE. Mr. President, I yield to the distinguished chairman of the Environment and Public Works Committee for a statement.

Mr. STAFFORD. I thank the Senator. I wish to compliment the distinguished Senator from Rhode Island for his outstanding work on the Coastal Barrier Resources Act.

Mr. President, S. 1018, the Coastal Barrier Resources Act represents an environmental initiative designed to respond to a unique national situation. Its passage will truly mark one of the major environmental achievements of this session of the Congress.

The undeveloped barrier beaches and islands along the Atlantic and gulf coasts are natural treasures that are both priceless and fragile. Yet, despite the fact that these areas are among the most unstable on Earth and are vulnerable to storms and hurricanes, they are being developed at an alarming rate—with subsidies from the Federal Government.

This legislation would end those subsidies by prohibiting most Federal expenditures and forms of financial assistance for development purposes on hazardous coastal barriers. I might note that existing coastal communities would not be affected.

This legislation recognizes that taxpayers should not be required to shoulder the recurring costs and high risks of private development on coastal barriers. But, it does not restrict private property rights.

Private property owners may continue to use and to develop their land as they see fit—but at their own cost and at their own risk.

This is imaginative legislation and full credit for its development and progress should go to my friend and colleague, the Senator from Rhode Island (Mr. CHAFEE), who is chairman of the Environmental Pollution Subcommittee, and to members of that subcommittee, in particular, and to members of the Senate Committee on Environment and Public Works, in general.

I urge my colleagues in the Senate to support passage of S. 1018. It is legislation that will help to solve real environmental problems and also legislation that recognizes our current economic situation.

Mr. CHAFEE. Mr. President, I wish to thank the distinguished chairman of the full committee, who has done a marvelous job, as always, in support of this very, very important piece of environmental legislation.

Mr. President, today we are considering what will be the only new environmental protection legislation of major importance to be enacted in the 97th Congress—the Coastal Barrier Resources Act.

This simple, straightforward proposal is aimed at preserving fragile undeveloped coastal barrier beaches and islands by prohibiting Federal financial assistance for new development. At the same time, this legislation will save the taxpayers billions of dollars over the course of future years.

Millions of Americans have discovered the unique natural treasures that constitute barrier beaches and islands along the Atlantic and gulf coasts. Sadly, these areas are being developed at an alarming rate. While this bill will not prohibit development, it makes clear that the Federal Government will no longer subsidize construction in those selected areas identified as undeveloped. Such action will go far toward protecting these regions for the benefit of future generations.

Congress should act, I believe, for several reasons:

First, these areas provide essential protection to coastal areas during times of severe storms. Barrier beaches and islands are nature's natural buffer for adjacent coastal areas from the damage of wind and wave.

Second, the fragile marshlands these areas encompass provide essential habitat for fish and wildlife. They are the crucible for the chain of life itself.

Third, it makes no economic sense for the Federal Government to subsidize development in these areas. Time and nature are constantly conspiring, through storm, wind and rain, to tear down what man has erected. The outlay of Federal dollars to support development—and to then rebuild what nature has destroyed—is foolish. Efforts to stabilize these formations to

protect roads, bridges, and buildings are not only hopeless, but a waste of money.

Mr. President, I would like now to explore these arguments in further detail.

BARRIERS ARE HIGHLY HAZARDOUS

Coastal barriers are so named because they create a barrier that buffers the mainland and associated wildlife-rich aquatic systems—such as lagoons, marshes, and estuaries—from the direct attack of ocean waves, storms, and hurricanes.

These areas are among the most unstable of landforms. Beaches, dunes, and entire islands erode and migrate as ocean currents, wind and waves undermine and move them. Storms can overwash and wipe out whole sections of beach and just as easily close the inlets as sediments are redeposited. Beach sands continually move and are redistributed. Because the sea level is rising, barrier islands are generally migrating landward. The combination of erosion and migration, as well as the effects of flooding from hurricanes and other storms, make these areas exceptionally hazardous places for permanent man-made structures and human habitation.

Mr. President, we have only to look at the massive Federal effort to save the historic lighthouse on Cape Hatteras, N.C., from the forces of the sea and sand to realize the futility of trying to tame nature in these areas. Since 1966, the Federal Government has spent almost $3 million to prevent the lighthouse from falling into the sea. But today, beach erosion has brought waves to within 50 feet of the building. It could cost up to $66 million to save the lighthouse and even after these funds are expended, there will be no guarantee that the structure will be protected from beach erosion.

BARRIERS PROVIDE ESSENTIAL HABITAT

Federal, State, local governments, and private organizations have recognized the importance of these areas for their fish and wildlife resources. The U.S. Fish and Wildlife Service has established over 35 refuges on coastal barriers and their associated waters and marshes. These areas provide key habitat for a wide variety of wildlife—especially waterfowl and other migrating birds. The Department of Interior estimates that over 40 percent of the Atlantic flyway black duck population depends on the marshes created by mainland coastal barriers.

Coastal barriers create and maintain wetlands and estuaries which nurture vital fish stocks. It has been estimated by the National Marine Fisheries Service (NMFS) that more than 80 percent of the shellfish and finfish caught by sport fishermen on the Atlantic and gulf coasts are dependent upon these estuaries during some stage of their life cycles. Moreover, NMFS estimates that over 90 percent of the U.S. commercial catch in the Gulf of Mexico and more than 80 percent of the commercial harvest on the Atlantic coast is comprised of species dependent on coastal barrier habitats. In 1980, these percentages of the commercial harvest translated into a dockside value in excess of $1 billion.

More than 20 endangered or threatened species find habitat on coastal barriers. These include raptors such as the bald eagle and peregrine falcon, as well as the whooping crane, Eastern brown pelican, and sea turtles.

Yet, despite the rich wildlife values of these areas, despite their highly unstable nature, and despite their vulnerability to storms and hurricanes, coastal barriers are being developed at an estimated rate of 5,000 to 6,000 acres per year—almost always with the aid of Federal tax dollars.

WASTE OF TAX DOLLARS

It is evident that Federal tax dollars encourage development of presently undeveloped areas and then perpetuate that development by providing extensive disaster relief and rebuilding assistance in the aftermath of erosion, hurricanes, and other storms.

Let us look at the situation in Dauphin Island, Ala., as an example of this senseless development/redevelopment cycle.

In 1979, the eye of Hurricane Frederick passed over Dauphin Island, destroying many homes and knocking out the island's bridge to the mainland. Since that disaster Federal expenditures to redevelop the island have reportedly mounted to at least $50,000 per residence. The biggest expenditure was a $38 million nonmatching Federal grant to replace the bridge to the mainland. Millions more Federal dollars have been spent for additional reconstruction. The rebuilding goes on, despite the fact that Dauphin Island still is in a hurricane track.

The Department of Interior (DOI) has estimated that over the past 6 years, the Federal Government has spent about $800 million to aid development and redevelopment on barrier islands in the form of direct and indirect expenditures. Further, the Department estimates that over the next 20 years the Federal Government would spend between $5.5 billion and $11 billion to aid development of presently undeveloped coastal barriers.

A glaring example of the Federal Govenment's archaic policy toward subsidizing construction on barrier areas is the national flood insurance program. Although there are no precise estimates on the cost of providing flood insurance in all coastal areas, subsidized insurance policies in the so-called V-zones—the areas of highest hazard—cost the U.S. taxpayers millions of dollars each year. For every dollar collected in premiums, the Government pays out $1.61.

Last year we enacted legislation to discontinue, starting October 1, 1983, Federal flood insurance for new construction on undeveloped coastal barriers.

Even though steps are being taken to make the program more actuarily sound to eliminate the subsidy, it still nowhere near covers the actual losses.

The bottom line, Mr. President, is that the Federal Government is subsidizing not only insurance but construction of homes and other structures in highly volatile areas—areas that will eventually be hit by hurricane or other storms. When that day comes and homes are destroyed, the Federal Government will step in and rebuild them, only to have a storm destroy them again and again. And what is Uncle Sam doing about this? Writing out check after check to cover the cost of reconstruction.

Mr. MITCHELL. Mr. President, I am a cosponsor of S. 1018, the Coastal Barrier Resources Act, and I am pleased to urge its adoption by the Senate. The bill, by restricting Federal support for the development of coastal barriers, is an important initiative both for protecting our fragile coastal resources and saving increasingly scarce Federal dollars.

I have the good fortune to represent a State that is noted for its magnificent coast. Maine's coastal wetlands and estuaries provide important wildlife habitat. Its picturesque rocky beaches and bays draw many visitors each year for sailing, fishing, camping, and other recreational activities. And Maine's fishing industry is an important part of our State's heritage and economy.

All of these pursuits are in large part dependent on coastal barrier structures. They buffer the mainland and protect the bays from our famous northeasters. Also, it is estimated that up to 90 percent of all fish caught on the coast are dependent on estuaries created and maintained by barrier structures. It is clearly in Maine's interest, and in the national interest as well, to protect these fragile areas.

S. 1018, as amended, would protect seven coastal barriers in Maine. Jasper, Cape Elizabeth, Scarborough Beach, Crescent Surf, and Seapoint were included in the legislation as approved by the Environment Committee. Also, the bill is being amended today to include two new areas in Maine, Lubec and Seven Hundred Acre Island. These seven areas were also selected by the Secretary of the Interior for restrictions of Federal flood insurance under the Omnibus Budget Reconciliation Act. Three additional areas which were selected by the Secretary do not need the protection provided by S. 1018. Sprague Neck Bar is owned by the U.S. Navy, Grassey Point is owned by the U.S. Fish and Wildlife Service,

and Roque Bluff Beach is a State park. These areas are therefore already protected.

The Federal Government loses in two ways when it encourages development on coastal barriers. First, it loses the important natural resources these areas nurture. It also loses hundreds of millions of Federal dollars spent for sewers, roads, beach stablization, and flood insurance in flood and disaster prone areas. The expenditures of Federal funding to encourage development in coastal barriers is certainly an unwise investment. Storms and other natural processes inevitably undermine attempts to stablize and develop these areas. Federal investments are lost and, under current practice, replaced with new Federal investment in a continuing cycle of wasted Federal moneys. S. 1018, by preventing this waste, just makes good sense.

Mr. CHAFEE. Mr. President, I wish to take this opportunity to express to Senator MITCHELL, the ranking member of the committee, our deep appreciation for the excellent work that he has done in connection with this very, very important piece of legislation.

Mr. President, I would like to briefly outline the major provisions of S. 1018. A more detailed explanation may be found in the committee report.

At the outset, I want to make several things clear to my colleagues.

First, this legislation affects only undeveloped areas where there are few if any structures (generally no more than one structure per 5 acres) and man's activities have not impeded the geomorphic or ecological processes. Areas such as Miami Beach or Ocean City, Md., are not affected by this bill because they are developed.

There are presently about 1.4 million acres of coastal barriers with about 2,500 miles of shoreline. About 40 percent of this area is developed or in the process of being developed; about 47 percent is undeveloped and protected; and the remaining portion, about 13 percent, is presently undeveloped and unprotected. This legislation would affect that remaining 13 percent.

Second, this legislation only prohibits new Federal expenditures. For instance, if a road going through an undeveloped area is damaged or washed away, it can be rebuilt with Federal dollars because, obviously, it is not new. However, Federal dollars would not be available for construction of a new road in an undeveloped area.

Third, this legislation does not authorize the acquisition of any lands by the Federal Government.

With those thoughts in mind, I would like to proceed with a general explanation of the Coastal Barrier Resources Act.

This legislation would establish the coastal barrier resources system and deny new Federal expenditures on those undeveloped areas for almost every purpose. For example, Federal funds would not be available for the new construction of sewers and roads, new loans for home construction and economic development and new shoreline erosion projects—except in cases where emergency assistance is required.

It is important to note however that the bill does not prohibit banks, savings and loans, or other commercial financial institutions (including those insured by the Federal Government) from making loans for homes or for other construction within the system. Nor does this legislation prohibit private financial transactions or the construction of structures or facilities that are funded with private funds or funds provided by State and local governments. Funds for the processing of Federal permits will also continue to be made available.

The bill does not tell private landowners what they can or cannot do within the undeveloped areas of the proposed barrier system. Those who own property on undeveloped barriers have the option to build and develop as they wish—but at their own financial risk, not at the risk of the U.S. taxpayers.

I would like to point out, however, that there are exceptions to these funding prohibitions. Federal funds for the exploration and extraction of energy resources are permitted as well as the maintenance of existing channel improvements, and dredge and fill activities. Federal funds would also be available for air and water navigation aids, fish and wildlife protection and enhancement programs, and national security activities.

The bill also requires the Secretary of Interior to prepare a report with recommendations for the conservation of the fish, wildlife, and other natural resources of the system. The report shall evaluate and compare management alternatives including the acquisition of units for administration under the national wildlife refuge system. The Secretary shall also report on recommendations for additions to or deletions from the system units as well as modifications to the boundaries of the various system units.

The report shall be submitted 3 years after enactment. It is important to note that the Secretary must prepare the report in consultation with the Governors of the affected States and the localities, and the general public will have the opportunity to comment.

Mr. President, this legislation has received broad support from many quarters. In testimony before the Environmental Pollution Subcommittee Secretary Watt stated the bill was

Precisely the sort of imaginative environmental legislation we need—legislation which can solve real problems in the stewardship of our national resources while at the same time responsibly addressing America's equally serious economic problems.

In addition to Secretary Watt's support, the Coastal Barrier Resources Act has received the support of all of the major environmental organizations, the American Red Cross, the National Taxpayers Union, the National Association of Floodplain Managers and many coastal groups including the Coastal States Organization. S. 1018 has 56 cosponsors. In short, Mr. President, this legislation has the support of conservatives and liberals, and Democrats and Republicans alike.

By aiding development of coastal barriers, the Federal Government is presently diminishing the productivity of estuaries and wetlands in terms of fish and wildlife resources; increasing risks to life and property, reducing the capacity of such areas to protect the mainland from storms, and reducing public access to valuable beach recreation areas.

Storms and other natural processes inevitably undermine the attempt to stablize and develop these areas. Federal investments are lost and, under current practice, replaced with new Federal investment in a continuing cycle of wasted Federal funds.

By enacting this legislation we will be signalling a change in Federal spending policy where the conservation of important natural resources come into play. This is because the legislation recognizes that Federal expenditures which subsidize and thereby encourage development on coastal barriers constitute a concise Federal investment from both a natural resource and economic standpoint.

This bill is an intelligent approach to conserving our remaining undeveloped coastal barriers. I urge my colleagues to give it their full support.

RELATIONSHIP OF S. 1018 TO FLOOD INSURANCE PROHIBITION CONTAINED IN PUBLIC LAW 97-35

Mr. President I would like to duscuss the Coastal Barrier Resources Act in the context of the provision contained in the Omnibus Budget and Reconciliation Act of 1981 (OBRA) (Public Law 97-34) which prohibits Federal flood insurance for new structures on undeveloped coastal barriers.

As I mentioned earlier, Congress recognized the folly of providing subsidized Federal insurance on undeveloped coastal barriers and last year enacted legislation to discontinue the practice. Under section 341 of Public Law 97-35, Federal flood insurance for new, or substantially improved structures will no longer be available on undeveloped coastal barriers after October 1, 1983. The Secretary of Interior is required to designate the undeveloped areas according to a definition that was enacted into the law. That

definition of an undeveloped coastal barrier is the same one which is contained in S. 1018.

As a result of the flood insurance prohibition, the designation of undeveloped coastal barriers has been on a two-track process—one being done administratively in the Interior Department, the other being done legislatively in Congress.

The first track began when I introduced S. 1018 in April 1981. The bill referenced a set of maps which delineated undeveloped coastal barriers. These maps were based on years of study by the Department of Interior. When these maps were first introduced with the bill, I realized that they were not perfected and in some cases had to be revised. To achieve that objective, I requested the Interior Department to ask for public comment on the maps. Comments were received although no changes were made until after the second track was underway.

The second track began with the enactment of Public Law 97-35 in August 1981. As I mentioned that law contained a prohibition of Federal flood insurance for new or substantially improved structures on undeveloped coastal barriers after October 1, 1983. The provision requires the Secretary of Interior to designate these undeveloped areas according to definition which is identical to a definition of an undeveloped coastal barrier in S. 1018.

In January 1982 the Interior Department released for public comment its first set of draft maps of undeveloped coastal barriers. Those maps contained many of the areas which were found in the maps first referenced in S. 1018, but there were differences.

In March 1982 the comment period on the Interior Department maps closed. DOI then began to review the comments for further revision of their maps.

During DOI's administrative rulemaking process, the Subcommittee on Environmental Pollution was moving forward with S. 1018. Hearings were held and a subcommittee markup was scheduled for April 28, 1982.

During that markup it was important that the maps reported by the subcommittee were as accurate as possible.

Since the Interior Department was making the comments it received on its draft January maps available to the public, we were able to examine that material and use it to update the S. 1018 maps which were going to be considered in subcommittee markup. The comments which were compiled by DOI pursuant to my earlier request when S. 1018 was first introduced were also taken into account.

Consequently the subcommittee and full committee adopted a set of maps which reflected all the information received by the Interior Department at the time.

Now lets go back to the ongoing administrative rulemaking process at Interior Department for a moment. The public comment period on their draft January maps closed in March 1982. Between March 1982 and the first of July they reviewed the comments received. On July 1, 1982, they released a set of interim maps which contained some changes that were based on the comments they received.

Between July 1, 1982 and July 14, 1982, DOI had another public comment period. After the end of that comment period they began to revise their maps to make their final proposed delineations.

The final proposed delineations were made public on August 16, 1982.

Now what we have here are two sets of maps, based on the same definition, which delineate undeveloped coastal barriers along the Atlantic and gulf coasts.

One set has been proposed by the Committee on Environment and Public Works, the other by the Department of Interior.

The areas delineated on the Interior Department maps would be ineligible for flood insurance policies for new or substantially improved structures. The areas delineated on the committee maps, if enacted, would be ineligible for other forms of Federal assistance.

Needless to say this is a rather confusing situation, so I would like to offer several amendments which I believe will solve the problem.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

Mr. CHAFEE. Mr. President, I move adoption of the committee amendments.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Mr. President, have the committee amendments been agreed to?

The PRESIDING OFFICER. Not yet.

The question is on agreeing to the committee amendments.

Without objection, the committee amendments are agreed to en bloc.

Mr. CHAFEE. Mr. President, I will call up my first amendment, a new set of maps dated September 10, 1982. As I have outlined, the Interior Department has spent an enormous amount of time sifting through vast amounts of information to develop the maps they released on August 16. Because these maps are more up to date and more inclusive than the committee's maps, I am using them as the basis for the amendments I am proposing. That is, Mr. President, I am using the Interior Department maps as the basis for the amendments I am now proposing.

The maps reported by the Committee on Environment and Public Works contain 146 system units with a beach length of approximately 600 miles, while the Interior maps contain 188 units with an approximate beach length of 747 miles.

Thus, the net result of this amendment is that many areas will be added into the Coastal Barrier Resource System, although a few necessary changes in some areas will also be made.

At this point, Mr. President, I submit for the RECORD a detailed list of the changes from the committee maps contained in the amendment. I ask unanimous consent that this be printed in the RECORD at this point.

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

The new set of maps I am offering by amendment are entitled "Coastal Barrier Resource System" and dated September 10, 1982. They contain the following changes from the maps reported by the Environment and Public Works Committee dated April 28, 1982:

MAINE

New Areas: Lubec Barriers and 700 Acre Island.

Boundary Change: Jasper, Cape Elizabeth, Scarborough Beach, and Cresent Surf.

MASSACHUSETTS

New Areas: Clark Pond, Good Harbor Beach, Brace Cove, Boat Meadow, Falmouth Ponds, Buzzards Bay, James Island, Mink Meadows, West Sconticut Neck, and Harbor View.

Boundary Change: Plymouth Bay, Center Hill Complex, Scorton Shores, Sandy Neck, Squaw Island, Black Beach, Esther Island Complex, South beach, Elizabeth Islands, and Horseneck Beach.

RHODE ISLAND

New Areas: Prudence Island Complex, West Narragansett Bay Complex.

Boundary Change: Little Compton Ponds.

CONNECTICUT

New Areas: Ram Island, Niantic Bay, Lynde Point, Fayerweather Island, and Norwalk Islands.

Boundary Change: Goshen Cove and Menunketesuck Island.

NEW YORK

New Areas: Sammys Beach, Acabonack Harbor, and Tiana Beach.

Boundary Change: Fishers Island Barriers, Crane Neck, and Mecox.

NEW JERSEY

New Areas: Stone Harbor Point and Cape May Complex.

Boundary Change: None.

DELAWARE

New Areas: Broadkill Beach Complex.

Boundary Change: None.

VIRGINIA

New Areas: None.

Boundary Change: None.

NORTH CAROLINA

New Areas: Shackleford Banks and Onslow Beach Complex.

Boundary Change: Currituck Banks, Hatteras Island, and Wrightsville Beach. Bodie Island deleted from Coastal Barrier Resource System. Also Bogue Banks deleted.

SOUTH CAROLINA

New Areas: Pawleys Inlet.

Boundary Change: Litchfield Beach, Daufuskie Island, St. Helena (renamed Otter I.), Captain Sams Inlet, and Edisto Complex.

GEORGIA

New Areas: Wassaw Island, Little Cumberland Island, and Cumberland Island.

Boundary Change: None.

FLORIDA

New Areas: Guana River, Usinas Beach, Matanzas River, Coconut Point, Bodwitch Point, Mandalay Point, Ochlockonee Complex, and Four Mile Village.

Boundary Change: Talbot Islands Complex, Conch Island, Ormond-by-the-Sea, Ponce Inlet, Vero Beach, Hutchinson Island, North Beach, Lover Key Complex, Sanibel Island Complex, Bocilla Island Complex, Manasota Key, Long Boat Key, The Reefs, Cape San Blas, Shell I. now called St. Andrew Complex, and Moreno Point. Amelia Island, Jupiter Island and St. George units deleted from Coastal Barrier Resource System.

ALABAMA

New Areas: Pelican I.

Boundary Change: Mobile Point.

MISSISSIPPI

New Areas: Belle Fontaine Point.

Boundary Change: None.

LOUISIANA

New Areas: None.

Boundary Change: Sagine and Point AuFer.

TEXAS

New Areas: None.

Boundary Change: South Padre Island and Brazos River Complex.

Mr. CHAFEE. Mr. President, as I have stated, this amendment will greatly increase the number of areas that will be included in the Coastal Barrier Resource System. I have consulted with the Members of the affected States in developing this amendment, and I believe there are no objections to its adoption.

Mr. President, I move adoption of my amendment.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

Mr. CHAFEE. The amendment is at the desk.

UP AMENDMENT NO. 1267

(Purpose: To amend committee print entitled Coastal Barrier Resource System Dated April 20, 1982)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1267.

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

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

The amendment is as follows:

On Page 5 delete line 10 and insert in lieu thereof the following: "and dated September 10, 1982."

Mr. CHAFEE. Mr. President, I move adoption of the amendment.

The amendment (UP No. 1267) was agreed to.

Mr. CHAFEE. Mr. President, my second, third, fourth, and fifth amendments, which are at the desk, are also extremely important. As I stated earlier, the Interior Department, under section 341 of the Omnibus Budget and Reconciliation Act of 1981, is moving forward with prohibiting Federal flood insurance in areas on its maps.

S. 1018 originally contained a provision prohibiting Federal fund insurance for new or substantially improved structures. But because we were able to get the Federal flood insurance cutoff provision in the Omnibus Budget and Reconciliation Act of 1981, we deleted flood insurance from the other prohibitions found in S. 1018.

These amendments reinstate the flood insurance prohibition in S. 1018 and repeal the authority of the Secretary of the Interior to designate undeveloped coastal barriers. The amendments insure consistency and clarity by making the flood insurance prohibition and the other prohibitions of Federal assistance found in S. 1018 applicable to one set of congressionally approved maps.

The PRESIDING OFFICER. May the Chair ask the Senator if he wants these amendments considered en bloc?

Mr. CHAFEE. En bloc.

Again, we have worked closely on these amendments with the Members who have been deeply involved in this legislation, and I believe they are acceptable to Members on both sides of the aisle.

UP AMENDMENT NO. 1268

(Purpose: To amend section 1321(a) of the National Flood Insurance Act)

UP AMENDMENT NO. 1269

(Purpose: To repeal section 1321(b) of the National Flood Insurance Act)

UP AMENDMENT NO. 1270

(Purpose: To repeal section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (P.L. 97-35))

UP AMENDMENT NO. 1271

(Purpose: Technical amendment to S. 1018)

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes unprinted amendments numbered 1268 through and including 1271, en bloc.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

UP AMENDMENT NO. 1268

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(d) Section 1321(a) of the National Flood Insurance Act of 1968, as amended, is amended by striking out "undeveloped coastal barriers which shall be designated by the Secretary of the Interior" and by inserting in lieu thereof "those undeveloped coastal barriers which are included in the Coastal Barrier Resources System established under section 4(a)(1) of the Coastal Barrier Resources Act".

UP AMENDMENT NO. 1269

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(e) Section 1321(b) of the National Flood Insurance Act of 1968, as amended, is repealed.

UP AMENDMENT NO. 1270

Section 4 of S. 1018 is amended by inserting at the end thereof the following new subsection:

(f) Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35) is repealed.

UP AMENDMENT NO. 1271

On page 7, line 18, insert "as amended," immediately after "(Public Law 97-35),".

The PRESIDING OFFICER. Without objection, the amendments (UP No. 1268, UP No. 1269, UP No. 1270, and UP No. 1271) as agreed to en bloc.

Mr. CHAFEE. Mr. President, I understand that Senators THURMOND and HOLLINGS have an amendment to offer to the bill.

UP AMENDMENT NO 1272

(Purpose: To permit landowners not otherwise included in the Coastal Barrier Resource System to elect to enter such system)

Mr. THURMOND. Mr. President, I send an amendment to the desk on behalf of Senator HOLLINGS and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. HOLLINGS, proposes an unprinted amendment numbered 1272.

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

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

The amendment is as follows:

At page 5, amend section 4(a) by inserting the following new paragraph at the end thereof:

(4) Any person or persons or other entity owning or controlling land on a coastal bar-

rier, associated landform or any portion thereof not within the Coastal Barrier Resources System established under paragraph (1) may, within one year after the date of enactment of this Act, elect to have such land included within the Coastal Barrier Resources System. This election shall be made in compliance with regulations established for this purpose by the Secretary not later than 180 days after the date of enactment of this Act: and, once made and filed in accordance with the laws regulating the sale or other transfer of land or other real property of the State in which such land is located, shall have the same force and effect as if such land had originally been included within the Coastal Barrier Resources System.

Mr. THURMOND. Mr. President, this amendment provides a procedure on which coastal property not included in the maps accompanying this measure may be included in the coastal barrier resource system at the option of the owner. I have discussed this amendment with the distinguished manager of the bill (Mr. CHAFEE). He has indicated it is acceptable to him.

Mr. President, this amendment would permit landowners on coastal barriers or associated landforms which have not been included in the coastal barrier resources system to put their land in the system within 1 year of the date of enactment of this bill. Once exercised, this option would not be revocable by the landowner or his successors in title, and the prohibition against Federal assistance contained in the bill and section 341(d) of the Omnibus Budget Reconciliation Act of 1981 would apply as if the land had been included in the system from the outset.

Mr. President, this amendment had its genesis in the particular situation posed by Daufuskie Island in South Carolina. Up until the Department of the Interior issued their final proposed delineations of undeveloped coastal barriers, many people felt that Daufuskie Island met the criteria established under section 341(d) of the Omnibus Budget Reconciliation Act for designation as an undeveloped coastal barrier. The island encompasses over 5,000 acres of fastlands (highlands), but has only 100 or so structures of any substance.

Moreover, although it has been inhabited continuously for over 4,000 years, and cultivated intensively during the 18th and 19th centuries, it had all but returned to its primordial state during the latter part of this century. This led many people to believe that the island had been spared the impact of man's activities, when in fact this was not the case.

When all the facts as to the physical characteristics of the island and the impedance of man's historic activities on its geomorphic and ecological processes were revealed, the Department of the Interior determined, and rightfully so in my opinion, that it was not a true coastal barrier, but stood only as the second line of defense against the impact of the ocean's energies. Accordingly, the Department recommended that the island be removed from the list of undeveloped coastal barriers in its entirety.

Mr. President, it had been my longstanding position that the Government should not in any way assist development of the low-lying portion of the island directly fronting the ocean. I did not believe, however, that landowners on the highly elevated back portion of the island should be denied Federal assistance generally available to much more hazardous and environmentally sensitive areas. In accordance with this belief, I proposed to the distinguished Senator from Rhode Island that a line be drawn along the 10-foot contour running the length of the island, and he graciously agreed. This proposal has now been incorporated into the coastal barrier resources system by amendment approved earlier today.

The incorporation of this line, while posing a barrier to the development of the low-lying portion of the island, does not assuage all of the fears expressed by some of its current residents. These people fear that development of any part of the island will lead to increased property taxes and inexorable pressures to sell their land for further development.

In response to the first of these fears, the Beaufort County Joint Planning Commission has recommended that the Beaufort County Council take some action to protect present residents from unwarranted property tax increases as a result of the development of any part of the island. Such action would not, however, relieve the pressure these residents may come under to sell their land for further development. This is one area where the amendment we propose would come into play.

Under this amendment, those landowners who do not want to develop or sell their property for development can opt to have their property placed in the coastal barrier resources system. Once in the system, this property could no longer receive the benefit of Federal flood insurance or any of the other forms of Federal assistance prohibited under the provisions of this act. Since institutional lenders have indicated their unwillingness to make loans secured by property in coastal zones for which Federal flood insurance is not available, this property would not be as attractive to potential developers, and pressures to sell for further development would be substantially reduced, if not entirely eliminated.

Mr. President, although this amendment had its genesis in the particular situation posed by Daufuskie Island, it would not be so limited in its application. Rather, it would permit landowners on coastal barriers or associated landforms up and down the east and gulf coasts to bring their property into the system, with the concomitant savings in Federal revenues.

In this way, Mr. President, the amendment allows for expansion of the coastal barrier resources system while respecting the rights of those most directly affected by such expansion, since only landowners or those with a colorable claim to title would be able to bring additional property into the system. Such property would thereafter be barred from receiving Federal flood insurance or any of the other forms of Federal assistance prohibited to elements of the system, thus substantially advancing the laudable fiscal and environmental goals embodied in the act.

Mr. President, I am confident that, upon carefully examining the merits of this amendment, our Senate colleagues will find it to be a positive addition to this measure.

Mr. CHAFEE. Will the Senator yield for questions?

Mr. THURMOND. I will be happy to yield to my distinguished colleague from Rhode Island.

Mr. CHAFEE. I have some questions about the language of the proposed amendment, as well as how it would operate and what would be its effect. But first, I would like the distinguished Senator from South Carolina to illustrate how the amendment might apply to areas other than Daufuskie Island.

Mr. THURMOND. I will be happy to.

Using the State of Rhode Island as an example, if the owner of the excluded portion of Block Island between Sandy Point and Beach Plum Hill wanted to have that portion included in the system, this amendment would permit its inclusion. The only limitation intended on the application of this amendment is that the property sought to be brought into the system be located on a coastal barrier or associated landform within reasonable proximity of and physically comparable to an established unit of the system.

Mr. CHAFEE. Could the Senator from South Carolina explain what is meant by this limitation?

Mr. THURMOND. It is not our intention that this amendment be used to bring land far removed from an established unit of the coastal barrier resources system or property which would be physically incompatible with this legislation into the system. The land sought to be included under this amendment would have to be close enough to an established unit of the system to bear most, if not all, of its physical characteristics, and should not be separated from that unit by

rivers or cliffs or other natural barriers. In other words, areas far removed from or bearing little or no resemblance to the type of landforms sought to be protected by this legislation, whether by reason of their natural features or the impedence of man's activities on their geomorphic or ecological processes, could not be added to the system by way of this amendment.

Mr. CHAFEE. If I understand the Senator from South Carolina correctly, this amendment would not permit the addition of land located some 4 to 5 miles from an established unit of the system or of property located in a highly developed area adjacent to an established unit of the system?

Mr. THURMOND. That is correct. Property which is neither geographically nor physically compatable with an established unit of the system would not be allowed into the system under this amendment.

Mr. CHAFEE. I thank the Senator for his response. Will the Senator now yield for questions on the language of the amendment?

Mr. THURMOND. I will be happy to.

Mr. CHAFEE. The amendment speaks in terms of a person, persons or other entity owning or controlling land. Could the Senator explain what is meant by this expression?

Mr. THURMOND. Mr. President, much of the land on Daufuskie Island and in other coastal areas of the South has been passed from generation to generation without deeds or valid testamentary dispositions. Title to such property, commonly known as heir's property, has become so divided over time that in many cases it is virtually impossible to determine the identity, much less the whereabouts, of all of the heirs with an interest in the property.

The heir or heirs in possession of such property commonly treat this property as their own, even though they do not have clear title. The term "controlling" was included in the language of the amendment to clarify that an heir in possession of heir's property has the power to bring that property into the system, without the consent or concurrence of all of the other heirs.

Another situation where the term "controlling" comes into play is where the affected property is in a perpetual trust. Although the trustee or trustees do not have equitable title to the property, they generally control its use and disposition, and would be the proper persons to bring the property into the system.

Mr. CHAFEE. Would the term "controlling" also apply to a tenant or local governing body?

Mr. THURMOND. No; it would not. The interest required by this term must be the functional equivalent of fee simple title. Since the option, once exercised, is irrevocable, it would be unfair to the landowner to permit a tenant to exercise the option without his knowledge or consent.

As for a local governing body, Mr. President, the object of the amendment is to allow for expansion of the system without overriding the rights of affected landowners. If all of the landowners in a given community chose to exercise the option in accordance with the regulations prescribed by the Secretary of the Interior, the entire community could be included within the system. If any landowner refused to enter the system, the balance of the community could nonetheless enter, and only that landowner who chose not to enter the system would be eligible to receive Federal flood insurance or any of the other forms of Federal assistance prohibited by this act. Personally, however, I see little probability of either of these scenarios occuring within the option period under the amendment.

Mr. CHAFEE. Will the Senator yield for a question on another matter?

Mr. THURMOND. I will be happy to yield.

Mr. CHAFEE. Mr. President, I would like to inquire into the impact the prohibition against certain forms of Federal assistance for property within the coastal barrier resource system would have on otherwise legitimate, federally assisted projects which may benefit property opted into the system under this amendment. For example, could this procedure be used to block a road or sewer line to be constructed with Federal assistance?

Mr. THURMOND. Mr. President, that clearly is not the intent of this amendment.

The mere fact that property has been included in the coastal barrier resources system by way of this amendment would have no effect on a federally assisted project which only incidentally benefits that property. For example, there would be no prohibition against the use of Federal funds to acquire a sewer or road easement across land which has been brought into the system, or to build the sewer or road across the property once the easement had been acquired. What would be prohibited is the use of Federal funds for any of the purposes specified in the act which would particularly benefit that property. In other words, while the easement could be acquired and the sewer or road built with Federal assistance, no Federal funds could be used to assist the landowner to tap on to the sewerline or to provide access from the affected property to the road. This general principle would also be applied to other forms of Federal assistance prohibited under the act.

Mr. CHAFEE. I am satisfied by the response from the distinguished Senator from South Carolina. Will the Senator yield for another question?

Mr. THURMOND. I will be happy to yield for another question.

Mr. CHAFEE. Mr. President, recently enacted legislation provides tax breaks for the donation of private property to the Government for public purposes, and there have been indications that the Secretary of the Interior will recommend that the owners of land included within the coastal barrier resources system be offered certain tax concessions. Could a landowner take advantage of these breaks or concessions simply by placing his property in the sytem by way of this amendment?

Mr. THURMOND. Mr. President, it is not the intent of this amendent to bestow any more favorable Federal tax treatment on any landowner than that otherwise available to other similarly situated taxpayers simply because he voluntarily brings his property within the system. If the recently enacted tax breaks the Senator from Rhode Island has mentioned are available to landowners whose property is included in the coastal barrier resources system under the delineations approved by Congress, then they should be available to a landowner who brings his property into the system under this amendment. If they are not so available, then he should get no special benefit.

As for the recommendation of the Secretary of the Interior, the same principle should apply. If concessions are given to those landowners whose property has been included under the maps, then they should be given to landowners who enter the system voluntarily. In other words, whether property is included in the system by act of Congress or by act of the landowner should make no difference for the purposes of Federal taxation.

By this, it is not meant that States or local governing bodies should be discouraged from offering tax concessions to landowners who voluntarily bring their property within the system. This is a matter which should be left entirely to the discretion of the particular State or local taxing authority.

Mr. CHAFEE. Will the Senator from South Carolina yield for one more question?

Mr. THURMOND. I will be happy to yield.

Mr. CHAFEE. Mr. President, the amendment provides that the contemplated option must be filed in accordance with the laws regulating the sale or other transfer of interests in land or other real property of the State in which the land to be included is located. Would the Senator explain the purpose and effect of this provision?

Mr. THURMOND. I will be happy to.

The purpose of this provision is twofold. First, the provision is designed to insure that the voluntary inclusion of lands not designated on the maps will appear in the chain of title to the property. This, I believe, is the most reasonable means of notifying potential purchasers and the public generally that certain lands not designated by Congress have been included in the coastal barrier resources system.

Second, this requirement will make it unnecessary for the Department of the Interior to keep detailed records of those properties which have been opted into the system, and it will be unnecessary for people interested in the status of certain property to come to Washington to find out that information. While I do not doubt that the Department of the Interior will maintain records of those properities included in the system, and will require notification of such inclusion in their regulations, this will relieve them of any requirement of maintaining detailed information such as legal descriptions and subsequent transfers.

As to the mechanics of filing, the Secretary of the Interior could approve a standard form as part of the regulations. This form could then be filed in the chain of title to the property in the same manner as a mortgage, lien, or lis pendens, depending on the particular State practice.

Mr. CHAFEE. I thank the Senator from South Carolina for his patience in responding to my questions. Based upon his answers, I have no objection to the amendment.

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

Without objection, the amendment is agreed to.

The amendment (UP No. 1272) was agreed to.

Mr. THURMOND. Mr. President, I want to take this opportunity to commend the able Senator from Rhode Island for the tremendous job he has done on this barrier island. It has been a Herculean task. In fact, when he started out, I did not see how any Senator would be able to accomplish what he has done. He has coordinated these matters with the various Senators. Every Senator did not get what he wanted. We did not get what we wanted. But he has been most considerate in working out these matters in great detail.

Mr. President, I just want the record to show that his leadership in this matter is probably the only way we ever would have gotten this through.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from South Carolina for those very kind comments. I would just like to say, Mr. President, that in working through this matter, we were very, very grateful and appreciative for the splendid support and understanding of the objectives of the legislation that the senior Senator from South Carolina demonstrated.

He is a proconservationist. He was for this bill, he worked with us carefully to achieve the objectives, and I think the citizens of South Carolina and, indeed, the citizens of the Nation owe him a deep debt of gratitude for his very, very helpful work as we proceeded through this intricate piece of legislation. I personally am very grateful to him.

Mr. THURMOND. Mr. President, I thank the able Senator for his kind remarks. I also commend Mr. McKnight of my staff, who worked so closely with Mr. Hurley of Senator CHAFEE's staff. Both of these staff members, I think, showed a great deal of expertise. They showed a great deal of consideration to the various Senators' staffs who were working on these matters and I commend them, too.

Mr. CHAFEE. Mr. President, I join in the commendation of Mr. McKnight and, of course, Mr. Hurley, whom I shall touch on later.

Mr. McKnight was extremely helpful, again concentrating on the objectives. I like to deal with people who want to move forward and who do not see a problem as an insurmountable obstacle but prepare to tackle and get on with it. Senator THURMOND is that kind of man and Mr. McKnight certainly displayed those qualities as well.

Mr. HOLLINGS. Mr. President, I support and am a cosponsor of the Coastal Barrier Resource Act, S. 1018.

I want to thank the distinguished Senator from Rhode Island (Mr. CHAFEE) for his cooperation over the last several months as we worked out amendments to S. 1018. The first of these amendments would require that State coastal zone management agencies be fully consulted by the Secretary of the Interior for the technical information required under section 4 of the bill for making minor boundary modifications. It has long been my experience that these agencies, which are in almost all our coastal States, and which are involved in the day-to-day management of our coastal areas pursuant to the Coastal Zone Management Act of 1972, as amended, have both the experience and the knowledge to contribute to this process, and help control some of the technical errors which have emerged on the Department of the Interior draft maps from time to time. In addition, the second amendment to section 10, lets the State coastal zone management agencies comment directly on the report, which the Secretary of Interior is directed to produce, providing for additions or deletions to the coastal barrier system established under S. 1018.

I am delighted that Senator CHAFEE is amenable to these two amendments, for it is my belief that they will strengthen his bill.

In addition, I join the senior Senator from South Carolina (Senator THURMOND) in sponsoring a third amendment to the bill, brought about by circumstances surrounding Daufuskie Island on the coast of South Carolina.

Previously, my position on the inclusion of Daufuskie Island in the coastal barrier system had been that the back portion of the island, where the old community exists, shoud be excluded. This island has a long history of settlement, and many residents of the island have been there for generations, often having little more than the land which they have inherited down through the years. I did not find it equitable to force a flood insurance prohibition affecting property values on these residents, since the only "savings account" many have is their land. However, the island residents held a public meeting in June and voted to keep the island in the barrier island system. The reason for this action was to discourage development on the island, for the majority of the residents did not want to encourage development, with its attendant rise in property taxes and pressure to sell. I respected the wishes of the residents, and began to work to maintain the island in the system.

The Department of the Interior, however, suddenly deleted the island in its entirety from its barrier island maps on August 16, 1982. And this is the last set of maps out for comment before the Interior finalizes these maps under provisions of the Omnibus Budget Reconciliation Act passed last year. Coastal geologists may quibble over whether Daufuskie Island constitutes a coastal barrier structure or not, but the Department of the Interior suddenly made an about face on the matter for reasons I can only conclude are due to political pressure. That is why it is now doubly important that the amendment that Senator THURMOND and I are sponsoring be made part of this bill and that this bill pass. We have returned a portion of the island, running along the 10-foot contour, to the coastal barrier system. In addition, we propose a "freedom of choice" amendment that would permit the landowners who do not want either to develop or sell their land for development to choose to have their property placed in the coastal barrier system. Once in the system, this property could no longer receive either flood insurance or any Federal funding for infrastructure such as roads, water, or sewer lines, or the like, that is prohibited under the Coastal Barrier Resources Act. This should substantially reduce the pressure in these areas to develop.

Although this amendment was born of the particular circumstances on

Daufuskie Island, it would apply to the entire east and gulf coasts, permitting landowners on coastal barriers or associated landforms to choose to place their property in the coastal barrier system. This will both encourage additional areas to be set aside from some of the pressures of development, and provide some additional savings in Federal revenues.

I am deeply appreciative that the distinguished Senator from Rhode Island (Mr. CHAFEE) has accepted these amendments, and thank him for his patience in providing us sufficient time to work out all the details.

I salute Senator CHAFEE for his work on this legislation. It is one which will help to maintain the wildlife values in the unspoiled barrier areas along the east and gulf coasts. Man, in the very root of his being, has always been, and will remain, attracted to the water and the coasts. And while tourism provides an important economic base in all our coastal States, many of the values people actually seek at the coast will be maintained more easily with the passage of this legislation.

Balance is always sought after, but hard to come by, between development and preservation. We spoke directly to that in the passage of the Coastal Zone Management Act in 1972. In that legislation we set up a voluntary system through which coastal States could balance conflicting uses in our coastal reaches and make room for both the water-dependent development that needs to occur and preservation of our more fragile and productive areas. These estuaries and marshes subject to tidal flow not only provide a diversity of fish and wildlife that people who live on the coast or visit there cherish and seek out to enrich the quality of their lives, but also spawning areas for the fish stocks that support our critical commercial and recreational fishing industries. And the coastal zone program has been very successful, with only three States on the east and gulf coasts still without a program—and one of these, the State of Virginia, has once again taken up its effort under Gov. Chuck Robb, and is making good progress toward approval of its program.

While coastal zone management has achieved remarkable success in forcing a balance in decisionmaking, there is room for a legislative effort which cuts off Federal funds that have supported development in some of the more hazardous areas. Having been through hurricanes along our South Carolina coast, I can speak to the destructive force which these storms unleash, and the devastation and destruction that is left in their wake. Man will forever live along the water, and so he should. But in those areas which receive the full brunt of these storms and provide protection for the mainland areas behind them, I believe it is fair that those individuals who choose to live there bear the risk of this exposure, rather than the Federal Government.

The days are behind us when we can provide Federal subsidies for every one of our economic sectors, without weighing carefully the true cost to the American taxpayer. This cost has now become translated into a raging budget deficit yielding high interest rates that stifle the housing market, business growth, and economic expansion. Congress will have to continue to examine and reduce many of these subsidies. The largest deficit in the history of the country has been brought about by some strange and exotic economic theory which the White House masquerades as "economic recovery policy." Extraordinary measures are now assuredly called for to get the deficit back under control. While the subsidies eliminated by this legislation make a modest contribution to this huge undertaking, it is a valuable contribution nonetheless, and a necessary one.

I want to thank the environmental community for their cooperation in this effort, particularly Sharon Newsome of the National Wildlife Federation, who worked closely with us. This is an important environmental bill, as well as one which will yield some savings for the beleaguered Federal budget. In that sense it is conservationist in the true sense of the word. There are many others who have helped us on this, including many South Carolina realtors and resort owners, who understood that this legislation was important enough to warrant their attention and their efforts at compromise. All the interests have, in the end, worked together to see that this legislation passes, and in that sense it represents some of the best we find in the democratic process.

I salute Senator CHAFEE for his work on this legislation, and am pleased to join him in cosponsoring S. 1018.

UP AMENDMENT NO. 1273

(Purpose: to give consultative to state coastal zone management agencies for boundary changes and report for coastal barrier resource system)

UP AMENDMENT NO. 1274

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

UP AMENDMENT NO. 1275

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

UP AMENDMENT NO. 1276

(Purpose: to give consultative role for state coastal zone management agencies in coastal barrier resource system)

Mr. CHAFEE. Mr. President, I send to the desk four amendments by Senator HOLLINGS. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments will be considered en bloc. The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) for Mr. HOLLINGS, proposes unprinted amendments numbered 1273 through 1276, en bloc.

UP AMENDMENT NO. 1273

At pages 6 and 7, amend Section 4(c) to read as follows:

"(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units: except that, for system units within States which have, on the date of enactment, a coastal zone management plan approved pursuant to Section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)—

"(A) each appropriate State coastal zone management agency may, within one hundred and eighty days after the date of enactment of this Act, submit to the Secretary proposals for such minor and technical modifications; and

"(B) the Secretary may, within three hundred days after the date of enactment of this Act, make such minor and technical modifications to the boundaries of such system units.

"(2) The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications made under the authority of paragraph (1), submit written notice of such modification to (A) each of the Committees and (B) each of the appropriate officers referred to in paragraph (2) of subsection (b).

"(3) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) and make in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

"(4) If, in the case of any minor and technical modifications to the boundaries of system units made under the authority of this subsection, and appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1)(A), the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals".

UP AMENDMENT NO. 1274

At page 6, amend Section 4(b)(2) to read as follows:

"(2) Within sixty days after the date of enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to each of the Committees and to the chief executive

officer of (A) each State and county or equivalent jurisdiction in which a system unit is located, (B) each State coastal zone management agency in those States which have a coastal zone management plan approved pursuant to Section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et. seq.) in which a system unit is located and (C) each affected Federal agency.".

UP AMENDMENT NO. 1275

At page 13, line 10, amend section 10(b) by inserting immediately after "States" the following:
"and with the coastal zone management agencies of the States".

UP AMENDMENT NO. 1276

At page 15, line 4, amend section 10(c)(3) by inserting immediately after "the States," the following:
"State coastal zone management agencies,".

Mr. HOLLINGS. Mr. President, questions of jurisdiction may be raised about future Senate action on the Coastal Barrier Resources Act, since there is a limited role in the process established through my amendments to S. 1018 for State coastal zone management agencies. I would like to state my objective clearly on this matter, and make certain that Senator CHAFEE and I are in agreement on this.

Mr. CHAFEE. I appreciate the Senator's concerns on the jurisdictional issue, since I share those concerns from the perspective of our committee. The Environment and Public Works Committee has sole jurisdiction over this legislation presently. I understand that he is neither requesting nor intending that the limited role for State coastal zone management agencies under your amendments be used to establish jurisdiction for the Commerce Committee concerning future amendments, which may include, but not be limited to, further additions to or deletions from the Coastal Barrier Resources System established under S. 1018. Is that correct?

Mr. HOLLINGS. That is essentially correct, with one limited exception, which I shall describe as exactly as possible. The Committee on Commerce, Science, and Transportation has exclusive jurisdiction over coastal zone management under the Senate rules. The role established for State coastal zone management agencies under my amendments is, from a jurisdictional perspective, a procedural one—that is to say that coastal zone management agencies are fully consulted prior to the Secretary of Interior making minor boundary modifications under section 4, and in developing recommendations for the report to the Congress on any additions to or deletions from the Coastal Barrier Resources System under section 10. Thus, our jurisdiction would extend to any changes in the procedural role established under my amendments to S. 1018 for these coastal zone management agencies.

What I am not proposing here is that we would ask for jurisdiction to review the substantive recommendations contained in the report to the Congress, for example. The only basis on which I would anticipate requesting referral would be if the Environment and Public Works Committee took some legislative action to change the role of the State coastal zone management agencies established under my amendments to S. 1018, since that would be a matter appropriately within our committee's jurisdiction. If, however, the Secretary of Interior does not respond to the State coastal zone management agencies as required by this legislation, I believe it would be appropriate for our committee to hear from the Secretary why this is so.

Mr. CHAFEE. The jurisdictional interest of the Commerce Committee is limited then to any changes in the role of the State coastal zone management agencies as established by your amendments, or to a circumstance where the Secretary refused to respond to these amendments, is that correct?

Mr. HOLLINGS. That is correct. Our ranking Democratic member (Mr. CANNON) has no objections to this statement of jurisdictional interest, since it maintains the jurisdiction our committee presently has under the Senate rules.

Mr. CHAFEE. If our committee were to report legislation to make additions or deletions to the Coastal Barrier Resources Systems, for example, you would not seek jurisdiction over that legislation?

Mr. HOLLINGS. That is correct. I support the process that is inferred in S. 1018 to permit the Congress as a whole to act on any additions or deletions to the Coastal Barrier Resources System under our normal legislative procedures in the Senate and the House, and recognize the jurisdiction of the Senator's committee over such legislation.

My intent in my amendments is based on my belief that our State coastal zone management programs can make a positive contribution to the objectives of S. 1018, since they have the detailed technical knowledge and the day-to-day management experience in our coastal areas. I believe this knowledge and experience should be tapped, since many of the policy objectives of the Coastal Zone Management Act are similar to what the Senator from Rhode Island is seeking to achieve through this legislative effort.

Mr. CHAFEE. I appreciate the support of Senator HOLLINGS, and given that the jurisdictional interest of the Commerce Committee is limited solely to that specified in the Senate rules, I have no objection to his statement of jurisdictional interest and am in agreement with it. In addition, our committee has no interest in extending jurisdiction to those issues covered by the Coastal Zone Management Act of 1972, as amended, over which his committee has exclusive jurisdiction pursuant to the Senate rules. I have no objection to the amendments being offered by the Senator from South Carolina (Mr. HOLLINGS).

Mr. President, I move adoption of the Hollings amendments.

THE PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (UP Nos. 1273-1276) were agreed to.

Mr. CHAFEE. Mr. President, I believe that the Senator from Alabama has some matters he wishes to discuss.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

UP AMENDMENT NO. 1277

(Purpose: To except the Usinas Beach Unit (P04-A) located in St. John's County, Florida, from the Coastal Barrier Resources System)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 1277.

Mr. HEFLIN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 5, line 10, strike out the period and insert in lieu thereof the following: ", except for the Usinas Beach Unit (P04-A) located in St. John's County, Florida and depicted on the map compiled by U.S.F.W.S. and others within the United States Department of the Interior in response to section 1321 of the National Flood Insurance Act of 1968 as added by section 341(d)(1) of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) dated January, 1982.".

Mr. HEFLIN. Mr. President, as a supporter of the Chafee-Evans Coastal Barrier Resources System bill, S. 1018, I am in favor of preserving our undeveloped coastal barriers while reducing Federal expenditures. At the same time, I am concerned that the law not unnecessarily destroy the rights of property owners to continue to develop lands which are currently under development. It appears that the Senate version of this bill includes a rather glaring misapplication of the guidelines developed by the Department of the Interior in determining what is an undeveloped coastal barrier.

The original bill provided at section 4(a) that those lands which are undeveloped coastal barriers are those "generally depicted on the maps that are entitled 'Coastal Barrier Resources System' consecutively numbered 001 through 125, and dated April, 1981." The 1981 maps were developed by the Bureau of Fisheries and Wildlife. The

Senate version of H.R. 3252 instead refers to maps which are developed by the Department of the Interior and are still in development and public comment stages. Both maps were developed from the same definitional criteria as to what constitutes and undeveloped coastal barrier.

The areas north and south of Usinas Beach, St. Johns County, Fla, are included in DOI Map P04A as an undeveloped coastal barrier. The 1981 maps did not designate these lands as undeveloped coastal barriers. I am led to question the reliability of the DOI's implementation of the regulatory criteria when it finds lands to be undeveloped which are found to be developed 1 year earlier.

A constituent of mine owns a substantial tract in the northern part of P04A. This entire tract has been developed at substantial expense to comply with all the necessary criteria to show that sufficient infrastructure exists to prove the land as developed. My staff has reviewed the evidence which was submitted to the DOI task force. Included in the infrastructure are:

First, water lines and a complete water system which have been placed into the lands for the sole purpose of serving the lots along Highway A1A and meeting DOI's threshold criteria.

Second, electricity which has been made available to all lots on the property

Third, telephone service available on both sides of A1A. It is underground on the west side and aerial on the east, having been placed there to serve this property throughout.

Fourth, all the subject property is zoned RS2, RS3—single family dwellings—or RRG2B—triplexes—by the St. Johns County Commission Zoning Board.

Fifth, septic tanks are approved for use in the area because the property has a municipal-type water system, including fire protection and fire hydrants.

Sixth, roadways have been cut and graded preparatory to paving.

Seventh, while the 100-year flood level is approximately 4.5 feet—some 90 percent of the property is 17 to 27 feet above sea level and no development is planned below the 100-year flood line.

Despite the submission of voluminous engineering reports, surveyor's reports, land use expert reports and aerial photographs which clearly show a full complement of infrastructure, the DOI task force found these lands to be undeveloped in its August 4, 1982 report to the Secretary of Interior. My staff has reviewed the task force's report as well as copies of the materials submitted to the task force by my constituent. The task force's finding that it has no evidence that the site will support a septic system is clearly erroneous. Indeed, uncontradicted evidence that the lands will support a septic system was submitted. In addition, the task force finds no evidence of structures on the southern two-thirds of the tract based on its aerial photos. The reason for this is the task force used infrared photography in its aerial photos which did not pick up the extensive network of PCV pipe infrastructure—fiberglass plastic pipe throughout the property—the landowner has installed at considerable expense.

Indeed, the findings of the DOI task force and the manner in which it has implemented its own definitional guidelines leave much to be desired.

The landowner has consistently submitted all materials and evidence to the DOI task force which was requested to show the lands as developed. To date approximately $500,000 have been spent in development which is now temporarily suspended pending resolution of this matter.

In my opinion, having fully reviewed all the evidence, the inclusion of the lands north of Usinas Beach, Fla., in map P04A as undeveloped is a miscarriage of justice in the application of the definitional criteria contained in the bill.

Mr. President, I urge my colleagues to join me and support this amendment to delete these lands from inclusion in the coastal barrier resources system.

Mr. CHAFEE. Mr. President, I know how intensely the Senator feels about this proposal. He and I have discussed it in some detail. I would mention, as he did, that this area is in Florida and not in Alabama, and so that involves a whole series of additional problems.

The experts of the Interior Department said that the area was undeveloped, after hearing all sides of the story during the comment period, and I would quote from the Interior Department material dealing with this Usinas Beach in which it says:

> The task force finds that a full complement of infrastructure, including road access at each lot and building site, does not exist within any of the existing ownerships and that the entire tract is suitable for inclusion as an undeveloped coastal barrier. . . .

Mr. President, I myself examined the aerial photographs. Maybe there possibly could be some infrastructure, but the public road, of course, has long been there. That was not built by the private people. That is a public road. Possibly there is an electric line, but it does not show that each lot is receiving service in the area. These are the very photos that were submitted to us by the developer.

Mr. President, I promise to the distinguished Senator from Alabama as follows: We have to go to conference on this measure. I promise him that we will take a good look at it. As I understand it, in the House maps they have deleted this section. If so, we will consider it along with other sections in Florida, realizing that this is a very carefully structured legislation that we are working with and we just cannot delete one piece without being subject to incredible pressures to delete others, but I would make that promise to my distinguished colleague.

Mr. HEFLIN. Mr. President, I appreciate the effort of the distinguished Senator from Rhode Island to review this. He raises some point about whether it is in Florida or Alabama. The issue is definitional criteria. If it is undeveloped, whether it be in Florida or whether it be in Alabama, it is still undeveloped. If it is developed under the definitional criteria, it is developed regardless of the location and the State.

I have pointed out in my statement various things about this, and I think to say a road exists does not keep it from being developed. Regardless of the age of the road, it is in a development stage.

However, I appreciate the courtesy of the distinguished Senator from Rhode Island, and I am willing to let this rest on its merits. I am convinced the merits are on the side of my constituents, and therefore, if it will have a meritorious review, I think that this could be determined at conference and because of that I withdraw my amendment.

Mr. CHAFEE. Mr. President, I want to thank the distinguished Senator from Alabama for his generous action in this instance, and I will go through with the commitment that I have made to him.

Mr. HEFLIN. Mr. President, might I thank the distinguished Senator from Rhode Island and tell him that my staff tells me that his staff person, Bob Hurley, has done a great job and has been most courteous and kind. I thank him for the courteous service that he has rendered to my staff. I appreciate the courtesies of the Senator from Rhode Island and the Senator from Maine in these matters. I appreciate the good, hard work that they have done in moving toward the passage of this very important legislation.

Mr. CHAFEE. Mr. President, I want to extend my thanks to the Senator from Alabama and to Mr. Gordon Martin who works with him, because he was most helpful in trying to achieve the objectives and stated forcefully his position which we considered. I am grateful we have come to this conclusion.

Mr. President, following final passage of this bill, the maps referred to in section 4 of this act, as amended, will be printed as an official committee print and, pursuant to section 4(b), the maps shall be available for public inspection at the offices of the U.S.

Fish and Wildlife Service following enactment of this legislation.

Mr. President, before we move to final consideration of S. 1018 I would like to take this opportunity to recognize the very important role Secretary of Interior James Watt has played in the formulation of this legislation. He and the members of the Department's Coastal Barriers Task Force have worked intensively over the past year to precisely delineate undeveloped coastal barriers along the Atlantic and gulf coasts under section 341 of the Omnibus Budget and Reconciliation Act of 1981. The information compiled by the task force has been invaluable to us in this effort. The Secretary strongly committed his personal resources and those of the DOI in this project and provided every possible opportunity for official and public review. All of us owe him thanks for a job well done.

I think it is important to point out the Department's year long study, summarized in Secretary Watt's report to Congress of August 16, 1982, found that the definition of an undeveloped coastal barrier contained in both S. 1018 and the Omnibus Budget and Reconciliation Act of 1981 "includes the essence of the many complicated factors and forces which comprise, shape, and sustain a coastal barrier system." Further, the Secretary stated that these statutory guidelines were "appropriate and effective in achieving the intent of Congress." His detailed study can give us confidence that our consideration of S. 1018 today is not only well-founded, but that it will also result in limiting Federal subsidies in these vulnerable coastal areas in a logical and rational manner.

The Secretary did make one recommendation in his report to Congress. He recommended that all undeveloped coastal barriers be designated, regardless of their protected status. The Omnibus Budget and Reconciliation Act of 1981, like S. 1018, precludes undeveloped coastal barriers from being designated if they are within the boundaries of an area established under Federal, State, or local law, or held by a qualified private organization, for the purpose of natural resource conservation.

The Secretary suggested that Federal subsidies for development would be available in coastal barrier areas that logically use such progams. Although we do not know what the impact of the recommendation would be at this time, I believe this concept should be given serious consideration in the future. Section 10 of S. 1018 directs the Secretary of Interior to prepare a report within 3 years of enactment of this bill, including recommendations for additions to the system. However, this certainly does not mean that the Secretary has to wait until 1985 when the entire report is finished to begin making recommendations. It is my hope that as soon as these additional areas recommended by the Secretary are identified, he will report back to us so we can further consider this thoughtful proposal.

Finally Mr. President, I would like to thank all those who have worked so hard on this legislation—the ranking member of the Subcommittee on Environmental Pollution, Senator MITCHELL, our full committee and ranking members Senator STAFFORD and Senator RANDOLPH, and all of the other members and their staff who were so actively involved in getting this bill passed.

Mr. President, I want to make one point about the cooperation we have received from Secretary Watt.

Secretary Watt and his Department have been superb in working on this matter. The Secretary set up a Coastal Barrier Task Force consisting of Mr. Ric Davidge, Ms. Diane Hoobler, Mr. Robert Peoples, Mr. Hardy Pearce, Mr. Bill Greg, Ms. Deborah Lanzone, and Mr. Pete Raynor and the other members of the task force.

Also, in conclusion, I certainly want to thank Bob Hurley of my staff who worked so hard on this. To get all these Senators to agree to all kinds of pressures and to have this go through by a voice vote is extraordinary. I do want to pay this tribute to Mr. Hurley and to Mr. Shimberg who helped him on it.

Mr. ROTH. Mr. President, I am pleased today to speak in support of the coastal barrier resources bill and proud to be a cosponsor of this important legislation. Delawareans have long had a keen appreciation for the great value and beauty of the beaches, dunes, and wetlands along our bay and ocean coast. But while development has occurred in such a manner that millions of American's enjoy these resources every summer, we have also become increasingly aware of the fragile and sensitive nature of these areas and the important role that they play in both sustaining life and protecting inland resources. Our commitment to their preservation is demonstrated by the fact that nearly half of our ocean front is owned and maintained by the State of Delaware and will remain undeveloped.

This legislation which we consider today is important for several reasons. It recognizes the unique and incredible beauty of these places as well as their value in the form of habitat where nesting can occur, life can begin and life can flourish. It protects them from development for the pleasure of man and the sustenance of wildlife and man.

At the same time by prohibiting the expenditure of Federal dollars to support development it acknowledges the fact that there is no justification for the taxpayer to risk billions in locations so subject to natural disaster.

This is not a bill that deprives property owners of the right to develop their land. Those who wish to develop may proceed. They must do it, however, without the American taxpayer assuming the risks of property loss for them.

It has been estimated that this legislation will preclude Government expenditures of up to eleven billion dollars over the next 20 years. In a time when we face budget reductions in many programs affecting many Americans, it only makes plain sense that we discontinue the practice of placing our limited fiscal resources on the beach to be washed to sea with precious natural resources.

I urge my colleagues to vote with me in support of this important measure.

Mr. PROXMIRE. Mr. President, I am one of the original supporters of the provision adopted in the Omnibus Budget Reconciliation Act to end subsidized Federal flood insurance to undeveloped barrier islands and beaches. I support S. 1018 because it would establish a consistent policy of eliminating all Federal subsidies to these unstable, storm prone areas and could save taxpayer $5 to $10 billion over the next 20 years.

In regard to the flood insurance prohibition and Secretary Watt's inventory of undeveloped coastal barriers, I must take exception to any attempt to confirm a loophole created by Secretary Watt which would allow some 20,000 pristine acres of barrier islands to continue to be eligible for Federal flood insurance simply because the acreage was planned for development sometime in the future. The legislation before us today appropriately incorporates some of the work already done by the Department of the Interior, but before any judgment is made on Watt's "phased development" proposal I would want an opportunity, as a member of the Banking Committee, to review it. The flood insurance prohibition alone will save the Treasury $65 million a year.

In addition, I urge my colleagues to support S. 1018.

Mr. LUGAR. Mr. President, I rise in support of the Coastal Barrier Resources Act because it represents both prudent fiscal policy as well as wise protection of the Nation's rapidly diminishing coastal barrier resources. As chairman of the Housing and Urban Affairs Subcommittee with jurisdiction over the National Flood Insurance Act, I participated in the conference last year on the Omnibus Budget Reconciliation Act when we accepted a House provision to eliminate new flood insurance to undeveloped barrier islands and beaches. The compromise was reached to delay implementation until October 1, 1983, during which

time the Department of the Interior would identify and inventory the undeveloped coastal barriers. The legislation before us today builds on the work accomplished by the Department over the last year. In the report to Congress Secretary Watt indicated this provision could save $650 million of taxpayers' money over the next 10 years.

I want to make it clear that neither the Senate Banking Committee nor the House-Senate conference has examined a proposal by the Department of the Interior to exempt so-called phased development projects from the flood insurance prohibition. Under this proposal, areas that are planned for future development would remain eligible for flood insurance after the 1983 deadline. The legislative history, including the report, refers only to structures and infrastructure in deciding development status. If it becomes necessary to clarify the intention of the Congress about areas planned for future development, then it should be done by the usual practice of review and decision by the appropriate committee. In this case, it would remain the prerogative of the Banking Committee and my Subcommittee on Housing and Urban Affairs.

In closing I want to thank Senator CHAFEE for bringing this important issue to the attention of the Senate.

Mr. TOWER. Mr. President, Federal intrusion into the affairs of private citizens has never been an activity I have encouraged. The strength of our country lies in the vast individual potential of its citizenry, their imagination, their energy, their willingness to work hard. It has been my observation that when the Federal Government intrudes in this creative process, productivity is stymied, imagination stifled. During my tenure as a U.S. Senator, it has been one of my objectives to seek a balance between such intrusiveness and the public well-being achieved through the legislative process. This has not always been easy, nor has the outcome been entirely satisfactory.

The issue of designating areas along the eastern and gulf coasts as undeveloped coastal barriers so that they will no longer qualify to receive Federal funds for flood insurance and improvement projects is a classic case of attempting to balance Federal intrusion and the public good. On one hand there exists a series of pristine beaches that represent a valuable environmental resource. Preservation of these beaches is important. On the other hand there are many, many individuals and families who, in good faith, have invested their funds in oceanfront property only to discover that developing it may be too risky, since Federal flood insurance will no longer be available, or too expensive, since Federal funds to help build improvements such as roads and sewer systems may not be available.

The balance to be struck rests in the final decision on what lands are truly undeveloped and what lands already boast sufficient infrastructure to be classified as developed and, therefore, exempted from the new legislation. The maps that were drawn up by the Senate Environment and Public Works Committee represent the best balance that those of us in the Senate working on this legislation were able to strike.

A vast portion of the Texas shoreline that was considered for the undeveloped designation will be included in these maps and will no longer qualify for Federal funds. The areas that were excluded from the coverage of this bill, specifically a very small 7½-mile segment of South Padre Island just north of the northern boundary of Andie Bowie State Park, which ends at the end of State Highway 100, and all of Mustang Island, already contain developed infrastructure. There are other areas that were difficult to rule on. One such area is land in Boca Chica. Despite my concerted efforts to see the Boca Chica Beach excluded from the maps, there did not exist sufficient infrastructure, despite the existence of a road and a powerline, to convince my colleagues that Boca Chica is, actually, already developed.

Another such area of particular concern to me is that portion of South Padre Island north of the end of State Highway 100, to the Mansfield Cut. A portion of this land had been previously under study by the Congress during consideration of the creation of the Padre Island National Seashore in 1969. In 1969, however, it was determined by both the Department of the Interior and Congress that this land should not be precluded from development and should not become a part of the protected lands. In fact, although some parcels had been included in the original condemnation for the seashore, the DOI, with the consent of Congress, revested ownership to those landowners. That this land, once before having been found suitable for development, should now be effectively precluded, disturbs me greatly.

It is my sincere hope that the thorough assessment of these lands was accurate. In making these decisions, the Environment and Public Works Committee depended on experts at the Department of the Interior as well as on comments of the landowners, who are naturally quite familiar with the areas.

Arguments on both sides of this controversial issue, which is of concern to so many coastal regions, in Texas and elsewhere, have considerable merit. While I recognize the importance of preserving coastal areas, I nonetheless recognize the absolute imperative of observing the significant investment and effort that many Americans have devoted to balancing developmental and environmental interests.

In analyzing the merits of this legislation, it was my conclusion that the most workable compromise for Texas was reached in these maps and the language of this bill.

Mr. MOYNIHAN. Mr. President, I rise today to express my support for the Coastal Barrier Resources Act (S. 1018). This legislation, of which I am a cosponsor, is most important to the protection of fragile barrier beaches along the Atlantic and gulf coasts from overdevelopment.

Barrier beaches and islands, which are among the most unstable land forms, are so named because they create a barrier protecting the mainland and various acquatic ecosystems from direct attack by ocean waves, hurricanes, and storms. Yet, despite their high susceptibility to natural hazards, these areas are being developed at an alarming rate. In fact, the Department of the Interior has estimated that between fiscal years 1976 and 1978, the Federal Government has spent about a half billion dollars to subsidize development of these areas.

S. 1018 would prohibit the Federal Government from providing financial assistance to develop these undeveloped barriers. Specified activities, however, not inconsistent with the provisions and aims of this act would still be eligible for Federal assistance. Such activities include the maintenance of existing channel improvements and publicly owned or operated roads, the establishment, operation and maintenance of air and navigation aids, and actions essential to saving lives and protecting property.

In New York, significant areas of dunes, marshes, wetlands, upland meadows and estuaries are covered under the provisions of S. 1018. These areas serve as essential fish and wildlife habitats for a myriad of migrating and endangered species. Nationwide, S. 1018 covers some 200,000 acres of important coastal islands and beaches.

The 97th Congress has yet to pass any new environmental legislation. We now have before us a rare opportunity to at once protect the environment and save millions of dollars a year in Federal expenditures.

Mr. President, for these reasons, I urge the passage of the Coastal Barrier Resources Act (S. 1018).

Mr. RANDOLPH. Mr. President, I am a cosponsor of S. 1018, the Coastal Barrier Resources Act. The measure received my full support during its consideration by the Committee on Environment and Public Works and I hope that my colleagues will now give it their favorable attention.

Coastal barriers are fragile land structures which stretch along the coasts of the United States. These areas, because of their unstable nature

and vulnerability to hurricanes and other fierce storms that often batter our coasts, are unsuitable for development. At the same time they are among the most important habitats and nurturing areas for our Nation's fish and wildlife. S. 1018, by preventing the use of Federal funds to develop coastal barriers, would save both increasingly scarce coastal resources and increasingly scarce tax dollars.

There are now approximately 1.4 million acres of coastal barrier structures, such as islands or spits of land, along the Atlantic and gulf coasts of the United States. These areas are being developed at an estimated rate of 5,000 to 6,000 acres per year and nearly 40 percent of the total area is now developed. The Department of the Interior has estimated that during the last 6 years the Federal Government has spent approximately $800 million to develop and redevelop coastal barriers. With passage of this bill the Government could save, according to DOI, from $5.5 to $11 billion in additional development funding.

Passage of this measure would also help assure the conservation of important natural resources. Over 20 endangered or threatened species depend on coastal barriers for their habitat. Moreover, according to National Marine Fisheries Service estimates, over 90 percent of the U.S. commercial catch in the Gulf of Mexico and 80 percent of the commercial harvest on the Atlantic coast depend on the wetlands and estuaries of coastal barriers.

S. 1018 is not a Federal land use measure—it would not dictate to State, local, or private landowners how they should use their land. It does, however, recognize that it is not in the Federal interest to continue to waste Federal revenues on developing what are among our most fragile, unstable, and vital natural resources. I again urge my colleagues to support this measure.

Mr. BUMPERS. Mr. President, I appreciate this opportunity to state my support for S. 1018, the Coastal Barrier Resources Act. As the Senate is probably aware, I have long advocated the enactment of legislation to protect the barrier islands and to eliminate Federal subsidy of wasteful and unwise development on the islands. The bill that I introduced last year was reported out unanimously by the Energy and Natural Resources Committee and the Environment and Public Works Committee, but unfortunately, the Senate was unable to act on the bill before adjournment. I also introduced legislation in this Congress, and I was pleased to join as a cosponsor of S. 1018.

More than 300 barrier islands, barrier spits, and bay barriers are located off the Atlantic and gulf coasts. These barriers are critically important for a number of reasons. They provide protection for the mainland from storms and fluctuations in sea level, and the marshes and wetlands associated with the coastal barriers are important wildlife habitats and sources of nutrients for fish populations. In many cases, the esthetic, cultural, and natural resources of the barriers are unique and extensive. The rate of development on coastal barriers—four times the national average since 1960—is one indicator of the attractiveness of these areas.

Unfortunately, however, the coastal barriers are sensitive and unstable landforms. Most consist of unconsolidated sand, which, as a result of wave action and rising sea levels, migrate toward the shoreline. Consequently, the barriers are easily and permanently damaged by development activities which interfere with natural processes. For example, bulldozing sites to allow oceanfront development greatly reduces the stability of sand dunes; diking and filling wetlands and marshes often destroys important wildlife habitats and disrupts nutrient flows; jetties, groins, and other structures designed to enhance one beach will inevitably cause the erosion of another beach, as they restrict the normal flow of sand.

The cumulative negative effect of development on the coastal barriers is tremendous. Federal resources are wasted on unsound construction and flood insurance payments, lives are jeopardized, and the unique natural and cultural values of the islands are diminished.

It is estimated that more than 500 million Federal dollars have been spent over the past 3 years on barrier islands through some 30 different programs administered by 20 different Federal agencies. Much of this money encouraged and subsidized the kind of unwise development I mentioned earlier. Clearly it is a tremendous waste of Federal funds to encourage new development by providing beach stabilization, bridge construction, wastewater treatment facilities, and flood insurance in the first place, and especially so when the Government then pays for reconstruction of these same facilities, often in the same place, following a major storm.

The second point to emphasize with regard to development of the barrier islands is the increased risk to human life that results from federally subsidized development. Structures on these islands are extremely vulnerable to the violent storms and hurricanes which frequently strike the coastal barriers with the full brunt of their force. Access to these islands is usually by ferry or two lane roads which are often inadequate means of evacuating people quickly and safely in cases of impending hurricanes or other disasters.

Mr. President, for fiscal, environmental, and safety reasons, the Federal subsidy of development on the currently undeveloped coastal barriers must be limited. One positive step has already been taken: In the 1981 Budget Reconciliation Act, the Congress prohibited the issuance of Federal flood insurance on undeveloped barrier islands after October 1, 1983. This action will create a strong disincentive for future development, but additional prohibitions are needed. Without a limitation on Federal financial assistance for development, the Federal expenditure for coastal barrier projects could reach $11 billion over the next 20 years. The bill the Senate will pass today will prohibit the expenditure of Federal funds for construction or purchase of structures, roads, bridges, beach stabilization projects, or other facilities.

S. 1018 will accomplish three important objectives: It will help reduce the wasteful expenditure of Federal funds for unwise development on the coastal barriers, it will reduce the safety hazard associated with hurricanes and other storms, and it will protect the barrier islands themselves, preserving their important natural and cultural resources.

Mr. President, I commend the Senator from Rhode Island, Mr. CHAFEE, for his efforts to protect the coastal barrier resources and to reduce wasteful Federal spending, and I hope that the House can consider this legislation as quickly as possible.

Mr. CHAFEE. Mr. President, I move passage of the bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CHAFEE. Mr. President, I want to thank the very patient majority leader, because he has participated tonight in a magnificent piece of environmental legislation and I know he is proud, and I am certainly grateful to him for all his assistance.

Mr. BAKER. President, I thank the Senator for tremendous accomplishment. This is probably the major piece of environmental legislation in this session of Congress. It is a major bill, and the fact that it was passed on voice vote should not detract from its importance.

Mr. President, I commend him and I commend all those who have been involved in this matter for their careful attention and for the good result that they have brought to the Senate, to the Congress, and I hope to the country.

Mr. CHAFEE. Mr. President, at this time I move to reconsider the vote by which the bill passed.

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a number of items that I am prepared to take up for action by unanimous consent if the distinguished minority leader is prepared to consider them.

Mr. ROBERT C. BYRD. Yes, Mr. President, I am ready to proceed.

Mr. BAKER. Mr. President, first is Senate Resolution 452, which is the budget waiver to accompany S. 2329. If the minority leader is prepared to proceed on this sequence, I am prepared to go forward.

Mr. ROBERT C. BYRD. Mr. President, I am prepared to proceed.

Mr. BAKER. I thank the Senator.

BUDGET WAIVER

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Resolution 452, the budget waiver to accompany Calendar Order No. 733.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 452) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329.

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

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

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

The resolution (S. Res. 452) was agreed to.

The resolution reads as follows:

S. RES. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2329. Such waiver is necessary because S. 2329 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority for an efficiency advisory roundtable to assist the Advisory Commission on Intergovernmental Relations in its consideration of proposals to rebalance the federal system.

S. 2329 authorizes such sums as are necessary to complete the work of the roundtable mandated by the bill. The Congressional Budget Office has estimated that appropriations of $300,000 over two fiscal years will be necessary for this purpose. The Committee on Governmental Affairs noted that the Advisory Commission on Intergovernmental Relations is authorized to accept gifts and enter into contracts to finance programs similar to those mandated by the bill and made authorization for the roundtable conditional on an appropriation or other financing in advance of appointing the roundtable members. Thus, the authorization included in S. 2329 is only triggered when funds for the mandate purposes become available, and not expressly for fiscal year 1983.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Advisory Commission on Intergovernmental Relations and the roundtable in fiscal year 1983 and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

EFFICIENCY IN GOVERNMENT ROUNDTABLE

Mr. BAKER. Now, Mr. President, I ask that the Chair lay before the Senate S. 2329, the underlying measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2329) to establish an Efficiency Advisory Roundtable to assist the Advisory Commission on Intergovernmental Relations in its activities concerning the New Federalism.

Without objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1278

(Purpose: To reduce the number of hearings)

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Georgia (Mr. MATTINGLY).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MATTINGLY, proposes an unprinted amendment numbered 1278:

On page 3, line 9, strike "ten" and insert in lieu thereof "five".

Mr. MATTINGLY. Mr. President, the measure before us now will create a bipartisan "Efficiency Advisory Roundtable" to the Advisory Commission on Intergovernmental Relations. This Roundtable would solicit advice from program specialists on any New Federalism initiatives that come before the full ACIR.

The new Roundtable would be of great help to us in considering any and all New Federalism proposals by providing direct input from experts who are very familiar with the programs that will be affected. These are the people who have to sort out all the mistakes that come to them from Washington. It is hoped that by bringing them into the process now, we can avoid some of these mistakes in our future actions.

This legislation calls for hearings to be held on the New Federalism concept in 10 regional areas. To reduce the cost of these hearings, I would like to offer a technical amendment to the bill to reduce the number of hearings to five around the country. This will provide a broad-based, bi-partisan sampling of expert advice without being a cost burden. Various House and Senate committees that will have jurisdiction over the legislation can hold additional hearings that will complement the reduced number of ACIR field hearings.

This does not create new salaried positions. The members of the Roundtable will be volunteers and will not receive any salary. They will be eligible to apply only for travel expenses. In addition, private donors may fund this project.

I ask that my colleagues join me in support of this bill. Only by direct input from the people may Congress hope to be fully informed on issues. We need the opinions of school board officials, health program directors, transportation experts, and a host of other specialized workers on the local level. The success or failure of any change in the relationship between Federal, State, and other local governments will depend on those men and women who have direct control of the affected programs.

I would like to thank Senator DURENBERGER, who has worked so hard in this area, for his cooperation.

We have the opportunity to make fundamental changes in the relationships between the levels of government. There definitely needs to be reform in this area. But to work out the fine print, the bottom line, is going to take someone with Solomon's knowledge, ability, and disposition. I know of no one better suited to face this momentous challenge than my distinguished friend from Minnesota. I stand ready to help him in any way I can.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1278) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 2329) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EFFICIENCY IN GOVERNMENT ADVISORY ROUNDTABLE

SECTION 1. (a) There is established an Efficiency in Government Advisory Roundtable of the Advisory Commission on Intergovernmental Relations (hereinafter referred to as the "Roundtable"). The Roundtable shall provide assistance and make recommenda-

tions to the Commission in any activities, studies, or investigations conducted by the Commission with respect to the proposals described by the President in the state of the Union address delivered to the Congress on January 26, 1982, concerning the exchange between the Federal Government and State and local governments of responsibilities for certain programs (commonly referred to as the "New Federalism").

(b) The Roundtable shall consist of not more than twenty members, who shall be nominated by the Commission and appointed by the President. The Commission shall solicit nominations for the Roundtable from State and local governments and from the public, and may also nominate individuals suggested by members of the Commission. Members of the Roundtable shall be appointed from among forty individuals who (1) have extensive experience in the administration of the programs referred to in subsection (a), (2) are elected or appointed public officials with the emphasis on State and local officials, and (3) are private citizens. The President shall appoint no more than twenty members to the Roundtable who, collectively, will be a broadly representative group of different geographical areas of the United States, of expertise in different programs referred to in subsection (a), and experience in different levels of government, and not more than one-half will be of the same political party.

(c) The Roundtable shall meet at such times as the members determine appropriate. The members of Roundtable shall elect a Chairman and a Vice Chairman from among its members. Any vacancy on the Roundtable shall not affect its ability to function, and be filled by the same process.

(d) The Chairman and the Vice Chairman of the Roundtable shall meet with the members of the Commission at the regular meetings of the Commission, but shall not have a vote on the Commission.

(e) The Roundtable shall hold five hearings on the New Federalism in different geographic regions of the United States.

(f) The Roundtable shall terminate two years after the date on which all members have been appointed to the Roundtable. The Roundtable shall submit a report simultaneously to the Congress, President, and Advisory Commission on Intergovernmental Relations concerning its activities within thirty days prior to the date on which it will terminate.

(g) There are authorized to be appropriated such sums as may be necessary to carry out this section.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET WAIVER

Mr. BAKER. Mr. President, I inquire of the minority leader if he is in a position to consider the budget waiver, Senate Resolution 464, and the underlying measure, S. 1701.

Mr. ROBERT C. BYRD. Yes. Mr. President, this side is ready to proceed.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 464.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 464) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1701.

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

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1701. Such waiver is necessary because S. 1701 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of S. 1701, the Missing Children Act. This legislation would create a national clearinghouse of information on missing children and a clearinghouse of information on unidentified dead bodies.

S. 1701 was introduced on October 6, 1981. Hearings were held on the subject of missing children on October 5, 1981, by the Subcommittee on Investigations and General Oversight of the Labor and Human Resources Committee. The Subcommittee on Junvenile Justice of the Committee on the Judiciary held hearings on April 1, 1982, on the subject of missing and exploited children. The legislation was reported by the Subcommittee on Juvenile Justice on June 30, 1982. It was reported by the Committee on the Judiciary on July 30, 1982.

If S. 1701 is not considered, it will mean a significant delay in establishing both clearinghouses of information on missing children and the unidentified dead.

The impact on the appropriations process will not be significant. The committee anticipates that the Department of Justice will submit an amendment for additional budget authority for fiscal year 1983 in which the funding for this program can be accommodated.

MISSING CHILDREN ACT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 1701, Calendar No. 728.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1701) to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee and the Judiciary with amendments, as follows:

On page 2, line 15, strike "within", through and including "individual" on line 16, and insert "after the discovery of such deceased individual";

On page 2, line 20, after "institutions,", insert "and acquire, collect, and classify any information";

On page 2, line 22, strike "or";

On page 3, line 1, strike "who", and insert "including but not limited to any missing person who-"; and

On page 3, line 12, strike "; and';", and insert the following: "and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter; and"; and

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

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

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

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

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, and acquire, collect, and classify any information from a parent, legal guardian, or next of kin of an unemanicipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person including but not limited to any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Aquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534

and inserting in lieu thereof the following new item:

"534. Aquisition, preservation, and exchange of indentification records and information; appointment of officials.".

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENT NO. 1279

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the Senator from Alabama (Mr. DENTON).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. DENTON, proposes an unprinted amendment numbered 1279.

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

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

The amendment is as follows:

On page 3 between lines 4 and 5 add the following:

Provided, the failure of any parent, legal guardian or next of kin of any unemancipated person to provide accurate information to the United States Government or any agency or employee thereof, or the failure of any parent, legal guardian or next of kin of any unemancipated person to remove such information in a timely manner shall not give rise to any cause of action against the United States Government or any agency or employee thereof.

Mr. DENTON. Mr. President, I rise in strong support of my distinguished friend and colleague from Florida, Senator HAWKINS. Her concern for missing children is unlimited and her efforts with the Missing Children's Act during this Congress are a testimony to her determination to address a distressing problem. I joined her as an original cosponsor of the bill in the effort to reverse the alarming increase in the number of missing children.

During the past several months, Senator HAWKINS has worked closely with the administration and the staff of the Subcommittee on Juvenile Justice to refine the language of the bill to insure that the missing persons' file maintained by the FBI will be used to its full capacity by parents, kin, interested parties, and State and local law enforcement agencies. The resulting changes did much to improve the bill and to satisfy the concerns of the individuals and agencies that will ultimately be affected.

I see only one minor change that would be useful. My amendment would limit the FBI's liability for information that is acquired and retained about a missing person.

This amendment will protect the FBI against a suit brought as a result of its maintenance of an information system. The possibility of such action could severely limit the FBI's willingness or enthusiasm to use the system to its fullest extent. I believe that by granting the Bureau protection, we will make it possible to operate with full cooperation from, and to the benefit of all interested parties.

I urge my colleagues to accept this amendment and to adopt the missing children's bill.

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

The amendment (UP No. 1279) was agreed to.

Mrs. HAWKINS. Mr. President, the Senate today considers S. 1701, the Missing Children Act. I wish to thank the distinguished chairman of the Judiciary Committee, Senator THURMOND, for supporting the bill and insuring its prompt consideration and timely report to the Senate. Without the able assistance of Senator THURMOND, we would not be here today to consider this vital legislation.

I also wish to thank the distinguished Senator from Pennsylvania (Mr. SPECTER), the chairman of the Subcommittee on Juvenile Justice. Because of his cooperation and support of this legislation, the bill was reported out of his subcommittee with unanimous approval on June 30, 1982. In addition, I wish to extend my personal appreciation to 76 of my colleagues who have joined me in cosponsoring the Missing Children Act. The concern for and support of this legislation by my colleagues here in the Senate has been overwhelming. We can all be proud of the fact that the Senate has assumed active leadership in the efforts to resolve the tragedy of America's missing children.

Our efforts began in June 1981, when it became increasingly clear that the missing children problem had become a national tragedy. The Subcommittee on Investigations and General Oversight of the Labor Committee began a year-long investigation to research and document the true and terrible plight of missing children. What we found was startling and shocking.

I remember our subcommittee hearings in October of last year during which we examined the distressing family tragedies of three dedicated and concerned parents. John and Revé Walsh of Hollywood, Fla., whose young son, Adam, was kidnaped and murdered in the summer of 1981, alerted us to the critical need for a clearinghouse of information on missing children and unidentified dead. John Walsh stated:

A country that can launch a space shuttle, that can return to Earth and take off again, a country that can allocate millions of dollars to save a small fish, the snail darter, but does not have a centralized reporting system or nationwide search system for missing children, certainly needs to reaffirm the very principles the country was founded on; namely, personal freedom.

I distinctly remember Mrs. Julie Patz of New York City, whose 6-year-old son, Etan, disappeared on his way to school more than 3 years ago. He has never been found. Mrs. Patz helped us to realize the far-reaching effects that missing children have on family members. She told us that the day her son disappeared marked the end of life as they had known it.

Mrs. Camille Bell of Atlanta, Ga., told us of her courageous efforts to alert her city at the very beginning to the insidious Atlanta child murders. Her 9-year-old son, Yusef, was one of the first victims of that tragedy.

Since those early days of our investigation, we have come to know hundreds of families throughout this country who have suffered this tragedy. Countless children disappear from home each year; many never return. Unfortunately, John Walsh was right. The realization that it is easier to trace a missing car than it is to trace a missing child is almost unbelievable, but it is true.

Even after a year and a half of investigation, the subcommittee is unable to accurately access the number of missing children is this country. The Youth Development Section of HHS estimates that a total of 1.5 million children disappear from their homes each year. We still have no clear idea as to how many of these children are runaways, how many are the victims of parental kidnapings, and how many are abducted by strangers and are the victims of crime. During the course of our investigation we surveyed 40 of the 50 most populous cities in order to gain more accurate figures. We found that there were more than 103,000 missing children in 40 cities during the year 1981. Perhaps most significant is the fact that, at the end of 1981, at least 8,300 of those cases remained unsolved. This is a tragedy of unkown proportions.

While it is true that most missing children return home to safety, it is equally true that far too many meet a different fate—physical abuse, exploitation, or death. Too often the outcome is never known—the child is never found. I believe that any child who has lost his home is in serious danger. Unfortunately, distraught parents who have sought help in finding their children have discovered that there is no one source to turn to for aid—and no one to hear their pleas.

Our current means of finding lost children are haphazard and ineffective at best. The proper aim of Federal legislation is to provide a clearinghouse of information on missing children and the unidentified dead. The Missing Children Act establishes a national clearinghouse for missing children, using the FBI's existing computer

system. This will give parents and police one place to turn to for assistance and one comprehensive pool of information. I have come to the conclusion that any clearinghouse of information must include missing children of all types. Kidnaping is perhaps the most dramatic example, but the problem goes far beyond abductions by strangers. Runaways represent a large part of the missing children problem. They are an especially vulnerable group—unhappy and misguided—and are the frequent victims of street crime or exploitation. They are fair game for molestation, prostitution, or other forms of abuse. Many runaways are found dead.

Parental kidnaping is another dangerous and vicious situation. Frequently, when a parent kidnaps his or her own child, the parent is acting out of revenge, not love. Child Find, a private New York-based search organization, reports that 60 percent of abducting parents have criminal records.

We know now that all missing children face potential danger and should be included in a national clearinghouse. The Missing Children Act makes provision to include runaways, as well as victims of parental kidnapings. I have insisted that there be no waiting period before these children are entered into the system because law enforcement officials have stressed to me that the first 24 hours are the most vital and important in a police investigation. The Missing Children Act would benefit not only children under age, but also mentally and physically handicapped adults and other especially vulnerable victims of kidnapings.

At present only an estimated 10 percent to 14 percent of the missing children are listed in the FBI missing persons file. This figure will certainly increase when parents are able to list their children in the National Crime Information System, as my bill provides.

The other major aspect of this legislation involves establishing an unidentified dead file. Contact with law enforcement agencies and medical examiners around the country indicated to me that between 2,000 and 5,000 unidentified bodies are buried each year in John or Jane Doe graves. Most experts estimate that approximately one-half of these unidentified dead are young people. Data on these unidentified bodies should be placed in a national file. Missing children and adults do not always survive their shocking ordeals, yet often their families never know their fate.

The Missing Children Act, as reported out of the Committee on the Judiciary, contains four amendments. These amendments were all added during the course of our investigation, as we came to discover from law enforcement officials the particular and desperate need for a national clearinghouse system of available information. The Department of Justice believes that codifying the existing classifications of missing persons may interfere with their management perogatives to expand the system. Therefore, we included an amendment that makes it clear that these categories are not exclusive and can be expanded. The Department was also concerned that if the NCIC was required to "preserve" information received from parents.

They would be unable to update their files and delete information about children who have returned home or have been located. Therefore, I proposed an amendment that would remove the word preserve and would allow the FBI to delete information received from parents who have recovered their children.

We also eliminated the 15-day delay in entering information concerning the unidentified dead. Law enforcement officials indicated to us that that might be too restrictive and that there were situations in which data concerning an unidentified dead body should immediately be entered in the clearinghouse. Finally, the Department of Justice and the Federal Bureau of Investigation indicated that language allowing parents to apply directly to the system might encourage them to bypass local law enforcement agencies. Accordingly, I amended the bill to include a requirement that parents must report their child as missing to the local law enforcement authorities before they have access to the NCIC system.

Mr. President, I am pleased to report that this bill has received not only widespread support among my colleagues but also among concerned citizens, organizations, and law enforcement agencies throughout the country. Those organizations include the Amercian Bar Association; the National District Attorney's Association; the National Association of Counties; Child Find, Inc.; the Adam Walsh Child Resource Center; the Dee Scofield Awareness Program; the National Youth Work Alliance; the National Association of Chiefs of Police; Child Welfare League of America; International Union of Police Chiefs, AFL-CIO; National Association of Criminal Justice Planners; National Association of Social Workers; National Council of Juvenile and Family Court Judges; and the Center for Community Change.

Mr. President, I learned early on that the cause of missing children had been advanced for years by many unknown and unrecognized individuals from around this country. These were sometimes the parents of a missing child, sometimes friends, sometimes law enforcement agents who took more than a professional interest in their duty; these are the individuals who must be recognized and appreciated for their service to the cause of missing children.

I also discovered that there was a network of truly outstanding human beings from all parts of this country who involved themselves in the cause of missing children and the passage of this legislation. Mr. President, I can assure you that this group of fervent and dedicated individuals is responsible for the passage of this legislation. To all of the parents, relatives, and friends of missing children, as well as the concerned citizens who contacted us, I can assure you that your calls and letters have truly been heard in the halls of Congress. I wish to express our deep appreciation to you on behalf of missing children everywhere.

We received vital support for the Missing Children Act from Gloria Yerkovich and Kristin Cole Brown of Child Find, Inc.; Mrs. Julie Patz of New York City; Mr. Ernie Allen, the executive director of the Louisville-Jefferson County Kentucky Crime Commission; and Mr. Jack Yelverton, the executive director of the National District Attorney's Association. I would also like to thank Jan Frohman of the National Association of Counties; Karen DiGia of Gallery 345 in New York; Louise Becker of the Congressional Research Service; and Robbie Calloway of the National Youth Work Alliance. Bruce Cohen and Mary Louise Westmoreland of the staff of the Juvenile Justice Subcommittee have provided critical assistance to the passage of this legislation. Howard Davidson, the director of the American Bar Association's Resource Center for Child Advocacy and Protection, deserves our special appreciation for his efforts in guiding and protecting this legislation.

Finally, Mr. President, I wish to extend my deep appreciation to the individuals who took as their own personal mission and cause, the passage of the Missing Children Act. These are John and Revé Walsh and Sgt. Richard Ruffino. Without their dedication and relentless advocacy on behalf of this legislation, we would not be here today. John and Revé Walsh of Hollywood, Fla., took on the cause of missing children in this country because of the personal tragedy that they experienced. It is difficult for us to conceive of the grief and horror they must have felt when their 6-year-old son was kidnaped and murdered. John Walsh has not only faced this tragedy, but he has turned his own experience into a true and heartfelt commitment to the safety and well-being of children everywhere. He has crisscrossed this country on behalf of the Missing Children Act and dedicated himself to the safety and protection of all children.

Sgt. Dick Ruffino of the Bergen County, N.J., Police Department is

perhaps the top law enforcement agent in this country on the issue of missing persons. Sergeant Ruffino is an excellent example of an outstanding law enforcement agent. His dedication to the cause of missing persons deserves all our thanks and appreciation.

Mr. President, I am proud to have worked together with these individuals in the past year to raise the consciousness of this country with regard to the national tragedy of missing children. This legislation is urgently needed to address the almost unbelievable situation that a missing car is easier to find than a missing child. Children like Yusef Bell or Adam Walsh have become a tragic statistic; but children like Etan Patz may still be alive somewhere. This legislation will establish a clearinghouse of information that will aid in the identification and location of America's missing children. We have the technology. Now we have the legislation. All we need is the commitment to make it work.

Mr. THURMOND. Mr. President, I am very pleased that the Senate is giving consideration to S. 1701, the Missing Children Act, introduced by Senator HAWKINS. I am pround to have been an original cosponsor of this measure, and my pride is enhanced by the fact that this proposal was reported favorably by the Committee on the Judiciary.

This bill addresses a tragic and long-overlooked fact of American life, that thousands of our youngsters disappear every year, never to be reunited with their families and loved ones. These children disappear on their way to school, in playgrounds, in shopping centers, and even from their own backyard.

Oftentimes these children wind up walking the streets of our big cities, engaging in prostitution and pornography just to stay alive. Other children become the victims of vicious, brutal, sexual assaults. Morgues across the country hold young children whose bodies have been so mutilated that it is impossible for authorities to identify them.

Mr. President, families throughout this Nation have been victimized by this epidemic. The parents of missing children need the support of Federal law enforcement officials because it is becoming increasingly common for abducted children to be taken across State lines.

The bill now under consideration would allow the families of kidnaped children access to the Federal Bureau of Investigation NCIC computer so that they can supply pertinent information regarding their child's identity to law enforcement officials nationwide. Further, the bill would maintain an unidentified dead file to aid in the location and identification of dead persons of all ages.

Mr. President, this is unfortunately a gruesome subject. I admire and commend Senator HAWKINS for addressing this issue and for her persistent efforts toward promoting this bill. I share the strong commitment of Senator HAWKINS, and of all those families whose children have inexplicably disappeared, that this is a matter of national importance which deserves immediate Federal attention.

I hope and trust that my colleagues in the Senate will recognize that our youth is this country's greatest asset which we must all treasure and protect. I urge my fellow Senators to vote favorably on this measure and to unanimously pass this bill.

Mr. CHILES. Mr. President, it is with much enthusiasm that I support and cosponsor S. 1701—The Missing Children's Act. This piece of legislation is long overdue.

Mr. President, as I am speaking now, approximately 50,000 American children are separated from their parents. A few of these children are found with in a few days, many, many others are never found. They may have been kidnaped, abused, or murdered. Unfortunately, there is little today that parents can do beyond contacting their local police force. Children who cross State lines may simply be beyond reach. When parents run out of personal funds to locate their son or daughter, they turn to the Federal Government yet we have no programs to help them.

S. 1701 will establish a national computer information network which will house the names of missing and unidentified children for use by police and FBI members—because the computer system already houses lists of stolen cars, firearms, criminal records, as well as numerous other items. Unfortunately, less than three-tenths of 1 percent of all missing persons ever get registered on the nationwide computer. S. 1701 will allow for all missing persons, including children, to be listed on the computer. This will allow for all law enforcement officers to locate information about children all over the United States, and help parents to locate their loved ones.

Let us help to ease the financial and emotional strains placed on the parents of missing children. This is our opportunity to help reunite families. Please join me and support S. 1701.

Senator HAWKINS deserves a great deal of credit from bringing this legislation to our attention, and I commend her for her efforts. I hope that the House will follow our lead and pass this important measure.

Mr. QUAYLE. Mr. President, whether abducted by friend or foe, parent or stranger, missing children need our help. I strongly support the Missing Children's Act because I believe we need to do more to help the 50,000 children who disappear in this country every year.

Efforts to assist these children and their families are hindered by policies and attitudes at all levels of law enforcement. If a child is reported missing, there is a pervasive belief among law enforcement agencies that the child is most likely a runaway. As a result, most police departments are prohibited from becoming involved in a missing child case until 24 hours has elapsed.

While the runaway presumption holds true for many of these children, it ignores the 50,000 who have been abducted, and gives the kidnaper a 24-hour headstart. I would rather we err on the side of the abducted child than on the case of a runaway. If it means we have to enter a search for a child, only to have it suspended a few hours later if a child returns to the home, it will be worth it to know that the search was underway if it needed to be.

Attempts by families to get the absent child listed on the FBI missing persons list are unsuccessful unless the child was last seen in the company of a person in a life-threatening situation when they disappear. Since most childrens' abductions are not seen, they cannot be listed with the FBI.

When the parent turns to the statewide registration system, they discover that they are underutilized because of the reluctance on the part of the police to enter information about missing children that may be runaways.

Rather than throwing obstacles before these families, we need to be doing all that we can to assist them. I believe this bill will accomplish that end. By establishing a national clearinghouse containing information about missing children, we will increase the liklihood that kidnaped children will be returned to their homes.

Mr. NICKLES. Mr. President, S. 1701, which assists in the identification of unidentified deceased individuals and the location of missing persons, including children, is a bill worthy of our consideration. It is time that we take what action we can to insure that missing children are reunited with their families. By adopting this legislation, we can require that a nationwide system be maintained and utilized in order to locate the whereabouts of missing persons.

S. 1701 also includes a process of cross-checking information in order to determine whether or not a person who has been declared "missing" is someone who is deceased, previously lacking the correct information to determine their identity. This will end the anguish of the many families who suffer from not knowing whether or not their loved one is still alive.

I strongly support this bill, and I trust that my colleagues will see the value that it holds for many families in this country.

Mr. HATCH. Mr. President, I am pleased to cosponsor S. 1701, the Missing Children's Act, and I urge my fellow colleagues to support an issue that is vital to American families. I wish to recognize the tremendous efforts of Senator PAULA HAWKINS, the distinguished Senator from Florida, who originated this legislation and has worked very hard to bring the problem to national attention.

On October 20, 1981, 4-year-old Danny Davis was shopping with his grandfather in a supermarket in Salt Lake City, Utah. Minutes later he was gone. Police are still looking for Danny and his abductors.

Elements of this tragic crime are repeated time and again across the Nation. The children face unknown fates ranging from forced separation from their loved ones to violence. Their parents face heartbreak and uncertainty, and the police, all too often, face cases without clues.

Each year, approximately 150,000 children are reported missing, and the Department of Youth Development in Health and Human Services estimates that as many as 1.8 million actually disappear. The parents of these children may experience weeks, months, or even years of uncertainty, of sleepless nights, of waiting and wondering. In addition to the mental agony, the parents encounter great difficulty in trying to locate their children.

If I had a car disappear right now, that disappearance would immediately go on the Federal records. If I had a child disappear right now, there would be no commensurate action. Only 10 percent of the children missing for an appreciable period of time are ever entered into a national missing persons file. The FBI collects information for that file on a voluntary, not an obligatory, basis from State law agencies. And most tragically, each year almost 2,000 cases involving the unidentified dead are closed, leaving 2,000 families a lifetime of uncertainty.

These bleak prospects for the resolution of cases involving missing children, and the terrible grief of the cases themselves, underline the tremendous need for a national registry. Under the Missing Children's Act, missing children would be linked nationally by a computer just as missing cars and refrigerators are currently linked. The bill would also make parental child snatching across State borders a crime and tie the names of 5,000 unclaimed bodies of children buried annually into the national computer.

The parents of Danny Davis are still waiting. So, too, are the parents of thousands of other missing children. I believe that we must use the resources and technology available today to aid the search for those children. It would be a tragedy of the first order if America were to abandon its lost children.

Once again, I urge my fellow Senators, the House of Representatives, and the President to make S. 1701 a law, so that some of our missing children can begin to be found.

Mr. SPECTER. Mr. President, as an original cosponsor of the Missing Children Act, S. 1701, I urge the favorable consideration of this important piece of legislation. The Missing Children Act was referred last fall to the Subcommittee on Juvenile Justice, which I chair. Since that time, the subcommittee continued the hearings begun by the Subcommittee on Investigations and Oversight of the Committee on Labor and Human Resources, and subcommittee staff met with representatives of the Department of Justice and the Federal Bureau of Investigation. At each step, the subcommittee has attempted to assure that parents of missing children be given every opportunity to locate their children, and at the same time to meet the legitimate and well-founded concerns of the law enforcement community that the system authorized by this legislation be effective and efficient. I believe that the bill as amended by the subcommittee and reported out of the Committee on the Judiciary does both.

The Missing Children's Act assures that any parent of a missing child may have data identifying his son or daughter entered into the FBI's National Crime Information Center (NCIC). At the same time, the bill encourages local law enforcement to utilize the resource offered by the NCIC system. Rather than altering investigative jurisdiction, the Missing Children's Act allows State, local, and Federal agencies to maximize access to critical data.

Because S. 1701 is not intended to expand the jurisdiction or the liability of the FBI, the FBI has requested that the bill be amended to insure that it not impart liability to the FBI for data entered by parents. In response to a commitment made by subcommittee staff, Senator DENTON has prepared an amendment for that purpose.

More than 50,000 children are abducted by strangers each year. Tens of thousands more are the victims of parental kidnapings or are young runaways. Surveys estimate that from 10 to 80 percent of these children are never entered on the NCIC system. The Missing Children Act will not guarantee that a single one of these children will be located by anxious parents. It will, however, guarantee that any parent may insure that his son or daughter's name is part of this centralized computer network. If this results in only one mother or father reunited with a lost son or daughter, the Missing Children Act will be a success.

I wish to commend the bill's principal sponsor, Senator HAWKINS, and her chief counsel, Jay Howell, for their unwavering commitment to securing the enactment of the Missing Children Act and for their willingness to work with the administration to address the concerns of the FBI. As a result, I believe that we have the opportunity to now enact legislation to assist thousands of families each year.

Mr. HUDDLESTON. Mr. President, today the Senate is considering a vitally important piece of legislation. S. 1701, the Missing Children Act, was introduced to provide some means for addressing the difficult problem of identifying children who have disappeared from their families. Hearings which have been held on this bill have dramatically shown the need for some system to help locate missing children. This legislation would establish a national clearinghouse for information on missing children and the unidentified dead.

Currently, the National Crime Information Center within the FBI maintains a national missing persons file. Yet, even while this system exists, information for only 10 percent of all missing children is now entered into the system. There are many reasons for the low utilization including lack of knowledge regarding the existence of such a file, limited resources and manpower to provide information to the system, and reluctance by local officals to use a nationwide system for a local problem. S. 1701 would amend present law to permit parents, legal guardians, and next of kin to list their missing children with the NCIC. This would help increase the utilization of the national clearinghouse and hopefully lead to the identification of many more missing children.

S. 1701 will also establish for the first time a national center for information about the unidentified dead. Each year, 2,000 dead persons are found and no information about their identity is available. Because of this, many families live for years holding out hope that their missing relatives will be found alive. By providing a place where information about these persons can be filed, we will help provide an end to needless suffering by many families across the country. Detailed information about the undentified dead would have to be entered into this national system 15 days after discovery to help provide positive identification and to help solve many cases that were previously impossible to solve.

By approving S. 1701, we will be showing our concern for families who have known the anguish that comes when a child is missing. We also will be providing a means of preventing

needless tragedy for many families in the future. I am pleased to be a cosponsor of this legislation and urge its passage by the Senate.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

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

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

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

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, and acquire, collect, and classify any information from a parent, legal guardian, or next of kin of an unemancipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person including but not limited to any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter: *Provided,* That the failure of any parent, legal guardian or next of kin of any unemancipated person to provide accurate information to the United States Government or any agency or employee thereof, or the failure of any parent, legal guardian or next of kin of any unemancipated person to remove such information in a timely manner shall not give rise to any cause of action against the United States Government or any agency or employee thereof; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL COURT REFORM ACT OF 1982, H.R. 6872, TO BE HELD AT THE DESK

Mr. BAKER. Mr. President, I have a request that I believe has been cleared, and I will state it now for the consideration of the minority leader and other Senators.

I ask unanimous consent that H.R. 6872, the Federal Court Reform Act of 1982, be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Mr. BAKER. Mr. President, I have discussed this matter with the minority leader, and it has been cleared on this side.

I ask unanimous consent, at the request of both Senators from Virginia, that the action taken yesterday by the Senate on the confirmation of Elmo Russell Zumwalt, Jr., to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, be vitiated, and that the nomination be replaced on the Executive Calendar, if and when the President returns the notification of confirmation to the Senate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

HIGHER EDUCATION ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2852.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 2852) entitled "An Act to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments, that the Senate request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. STAFFORD, Mr. EAST, Mr. QUAYLE, Mr. WEICKER, Mr. DENTON, Mr. HATCH, Mr. PELL, Mr. KENNEDY, Mr. RANDOLPH, and Mr. EAGLETON conferees on the part of the Senate.

ORDER TO HOLD H.R. 7065 AT THE DESK

Mr. BAKER. Finally, Mr. President, I believe this has been cleared as well. I ask unanimous consent that H.R. 7065, a bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes be held at the desk until the close of business on September 24.

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

LETTER RE SCHOOL PRAYER AMENDMENT

Mr. TSONGAS. Mr. President, yesterday I had printed in the RECORD a number of letters from various organizations opposing the school prayer amendment. I now wish to print another letter I received from the National Council of Jewish Women.

I ask unanimous consent that it be printed in the RECORD at the appropriate place at which debate occurred on the school prayer amendment.

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

NATIONAL COUNCIL OF JEWISH WOMEN,
New York, N.Y., September 23, 1982.

Hon. PAUL E. TSONGAS,
U.S. Senate, Washington, D.C.

DEAR SENATOR TSONGAS: The Executive Committee of the National Council of Jewish Women, has expressed its alarm at the threat to the independence of the federal judiciary. Such legislation would deny to the Supreme Court and to the federal courts the jurisdiction to determine the constitutionality of laws adopted by Congress and state legislatures.

The checks and balances provided in the U.S. Constitution are essential to the protection of individual rights. The NCJW believes that inherent in individual rights is the responsibility to protect them.

It is in the area of civil liberties and civil rights that the challenges to an independent judiciary are being posed. The constitutional principle of separation of church and state is threatened by Senator Jesse Helms' school prayer amendment which is completely unrelated to the Debt Ceiling Bill (H.J. Res. 520). It would deny both the Supreme Court and lower federal courts juris-

diction over the question of whether prayer in the schools can be authorized by local and state authorities.

Under the theory of this legislation any special interest group which disagrees with an interpretation of the Constitution by the Supreme Court will need only to find a simple majority in Congress willing to pass legislation curtailing federal court jurisdiction in that area. State courts then could hear cases involving constitutional issues removed by Congress from the federal courts. Instead of "one law of the land" there would be 50 different interpretations of what the national constitution requires. It would also prevent the Supreme Court from considering future school prayer cases, thereby threatening the Courts' ability and right to interpret the Constitution. Should the legislative branch pass an amendment over judicial objections, our constitutional triad of checks and balances will have been weakened and with it the foundation of the laws of our society. Congress is the barometer of current public opinion, but public opinion is transient and should not be used to bypass the protections afforded us by the framers of the Constitution.

We urge Congress to reject this amendment which would circumvent the Constitution of the United States with its guarantees of liberties under the Bill of Rights.

Sincerely,

SHIRLEY I. LEVITON,
National President.

REBUILDING THE ROAD TO OPPORTUNITY

Mr. HOLLINGS. Mr. President, yesterday I was privileged to introduce into the RECORD the first of the very valuable studies being produced by the Caucus Committee on Party Effectiveness of the Democratic Caucus of the House of Representatives. The chairman of this caucus, the Honorable GILLIS LONG, has overseen the preparation of these studies and in doing so has made a signal contribution to the quality of our national debate over the future direction of America.

Today the additional reports making up this study have become available. These cover Housing, Small Business, Women's Economic Issues, the Environment, Crime, and National Security.

Together these subjects cover most of the agenda of problems confronting our Nation today. Each of these papers deserves the widest possible audience, and for that reason I am asking that they be printed in today's edition of the CONGRESSIONAL RECORD. Because the first of these appeared yesterday the piece entitled "Rebuilding the Road to Opportunity," I ask unanimous consent that section No. II on "Long-Term Economic Policy" be omitted from the reprinting, as it is available on page S11943 of the CONGRESSIONAL RECORD of September 22, 1982.

I commend these studies to the serious attention of each of my colleagues, and I congratulate everyone involved in their preparation for helping focus the Nation's attention on the real problems confronting America today.

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

REBUILDING THE ROAD TO OPPORTUNITY: DECENT, AFFORDABLE HOUSING FOR OUR PEOPLE

(Introduction by Rep. HENRY B. GONZALEZ, Chairman, Rep. BARNEY FRANK, Vice Chairman)

Ever since 1948, when President Truman pledged this nation to the goal of decent housing for all Americans, the Democratic Party has been the steady friend of those who wanted a home of their own and those who wanted to keep their homes. The most successful programs to promote housing have been Democratic programs: FHA, Farmer's Home Administration, and VA are all products of Democratic inspiration and our determination to put a firm roof over American families. The result of this is that in 1982, there are 52 million owner-occupied homes in America. Our expectation that future generations would enjoy the same blessing has been challenged by the policies of the Reagan Administration.

Since the day Ronald Reagan took office new construction expenditures have fallen by 20 percent.

In the 18 months since a Republican occupied the White House housing starts have decreased by 47 percent.

In the period since January 1981, sales of new homes have declined by 34 percent.

The excessive cost of mortgages has caused many families to over-extend themselves or to take gambles that conditions will improve by deferring costs which will later come due. As for the home construction industry, the effects have been devastating—a 48 percent rise in unemployment since January 1981 and a record number of construction firms declaring bankruptcy.

Democrats resolve that fifty years of housing progress will not be sacrificed on the altar of Reaganomics. We pledge to rescue and then to revitalize housing in America.

Both immediate, short-term solutions and more long-term remedies are necessary in order to revitalize housing. To avert a collapse of the industry, Democrats advocate several steps to cushion the pain to homeowners victimized by the Reagan recession. For the long-term, we support a number of programs which have proven to be keystones to our housing success to date, while recognizing the importance of developing new sources of capital, new financing mechanisms, and programs which continually improve upon the delivery of affordable housing for moderate and lower income Americans.

Democrats are determined to protect the national goals of revitalization and economic development to achieve suitable living conditions and a sense of community for all Americans.

Over the past half century our country maintained a commitment to decent, affordable housing for every American family. We reaffirm that commitment.

The Republican Administration's declared war against Federal housing programs abandons this commitment, breaking faith with middle income Americans, the poor and the elderly, whether they live in our great cities, our towns, or rural communities.

The Republican Administration's housing policy has decimated the housing industry and the financial institutions upon which that industry depends. The Administration's restrictive monetary policy has left private mortgage markets in disarray.

The Republican Administration's abandonment of five decades of bipartisan progress in Federal housing programs is both wrong and fiscally irresponsible.

The nation is paying a heavy price in both dollars and human misery for the Republican Administration's outright hostility toward our housing needs.

The cost of neglect is reflected in soaring unemployment: over 19 percent are unemployed in the construction industry and 17.7 percent in related industries such as lumber and wood products. Millions wait for a housing policy that will return them to productive jobs.

The cost of neglect is certain to dash the life-time hopes of millions of Americans who desire decent shelter. Neglect will damage the fabric of neighborhoods and communities, whose revitalization needs government help.

An economy of maximum employment, production and purchasing power, is dependent upon a strong and vital housing industry. A decent housing policy—where credit is available, construction steady and strong, and private industry allowed to flourish through government incentives—is a prerequisite to recovery. Failure to deal with the depression in housing delays and even threatens national economic recovery.

The Democratic Party will not permit fifty years of housing progress to unravel nor economic recovery to flounder. We propose immediate steps to revitalize the housing industry. (see page 41 on this draft) For the long-term health of the industry, we support:

A housing credit policy that enables the middle class—especially first-time homebuyers—to overcome barriers to homeownership.

Policies that assure the production of an adequate supply of housing, particularly rental housing.

Adequate funding of programs which meet the special needs of elderly and low income families.

Assistance to preserve and revitalize public and assisted housing, to maintain the infrastructure of the nation's rural and urban areas, and to promote community and economic development.

BACKGROUND

Government policies have been vital to our progress. Credit programs enabled millions of Americans to purchase homes which they could not otherwise finance. Stimulation of housing construction created millions of jobs and a flourishing private sector. Assistance for elderly and low income people lifted millions out of substandard shelter.

America's housing policy has been so successful that it is easy to forget the critical role government has played. As the Administration embarks on a plan to abandon federal housing programs, it is important to look back and recognize the importance of government in housing.

During the Great Depression, before federal involvement, many Americans were poorly housed. Homeownership was not widely available, and many of those fortunate enough to own homes lost them through foreclosure. Renters—then a majority of Americans—were largely confined to crowded, blighted tenements or to rural housing lacking adequate plumbing, elec-

tricity, and other amenities which we now take for granted.

The dramatic progress of the last half century was not the product of an unfettered, laissez-faire economic system. Creative national legislation established an environment conducive to private home construction. Sheltered housing credit; the long-term, fixed-rate mortgage; rental housing assistance; and the roads, water supply and sewers necessasry to connect homes to a community; each received initial stimulus from federal legislation.

Federal policies sponsored the financial institutions that have become the lifeblood of affordable housing. The Federal Housing Administration (FHA) and the Veteran's Administration (VA) for years have played pivotal roles in meeting mortgage credit needs. These programs enabled families—especially first-time homebuyers—to enter the housing market by offering insurance for low down-payment mortgages. In rural areas where housing needs have been particularly acute, the housing credit programs of the Farmers Home Administration (FmHA) have made an enormous difference. More recently, the Federal National Mortgage Association (FNMA) and the Government National Mortgage Association (GNMA) have offered a critical service in providing a new, steady source of more affordable mortgage money. By 1981, this "secondary market" accounted for 60 percent of all mortgage money.

Our government has been committed not only to suitable housing for the middle class, but to remedying the deplorable condition of lower income housing. Housing assistance to lower income Americans, and aid to the poorest segment of society through public housing, have meant greater opportunity for decent shelter for millions of families. Rehabilitation and neighborhood preservation programs have helped our cities and rural areas attract the industry and jobs needed for a stable economic base.

The national commitment of resources to housing over the past fifty years has been substantial; and so have the gains. Over 52 million American families own their own homes. We went from a country one-third ill housed to a country with fewer than 10 percent living in substandard housing. The housing industry provides more than three million jobs and accounts for five percent of the GNP. Housing has played a vital role in our economic and social progress, generating considerable productive economic activity.

All this has been accomplished with broad, bipartisan support from Democratic and Republican Administrations. This progress is now threatened. The current Republican Administration's radical and unprecedented departure from accepted housing policy would have us back-slide into the dark past.

REAGAN DISMANTLING

The Administration has adopted policies on housing that, rather than alleviating the impact of the recession, have plunged housing into a depression. The vital signs of the industry read more like a page out of a period of our history we would like to forget:

Housing production has reached a 35 year low. In 1981, annualized starts were the lowest since 1946. Worse yet, for the first six months of 1982 starts were running about 25 percent behind the very low 1981 pace. Overall, there are about ½ million fewer housing starts per year during this Administration than there were in the last Administration.

Mortgage interest rates were at record levels during 1981, choking off activity in home sales. One year after President Reagan took office, the seasonally adjusted rate for existing home sales was at its lowest level in 11 years. New home sales for 1981 were the lowest since 1963, when the census bureau first began to separate out this data. For the first six months of 1982, new sales ran 24 percent behind the already low 1981 pace.

Business failure for building contractors and subcontractors for the first eight months of 1981 was up 41 percent from the same period in 1980.

The long-term fixed rate mortgage—the mainstay of housing progress—is threatened with extinction.

Thrift institutions are caught in an earnings squeeze that has, in effect, penalized them for their commitment to housing, and pushed them toward failure.

For the first time since the Depression, the number of homeless people is rising.

Today 88 percent of American families are effectively priced out of the mortgage market. Thousands of American families have been forced to allocate increasing percentages of their take-home pay for shelter, short-changing other essential needs, and raising the specter of skyrocketing personal bankruptcies.

These aggregate numbers speak loudly, but do not begin to explain to the nation the severe hardships, the pain, the suffering, the dashed hopes, that flow from the failure of the Reagan Administration policies on housing. We reject these anti-housing policies.

THE DEMOCRATIC RESPONSE

Stark reversals of long-standing housing policy may fall lightly from the Republican pen, but the Democratic Party maintains its deep-seated commitment to decent, affordable housing and suitable living environments for all Americans.

Democrats are supportive of this country's housing programs because they have worked, not because we are unable or unwilling to change course. Policies require constant evaluation; we will modify or replace where more effective alternatives are found. Fiscal scrutiny, in particular, is important, especially during times of economic stress. We will not "throw" money at our housing problems; we will spend wisely and insist on the maximum benefit from each public dollar spent. This philosophy will be a guide as we provide answers to today's housing problems.

Democrats strongly endorse

I. Immediate measures to revitalize the housing industry:

The housing industry has been in a seriously depressed condition for months. This Administration's clear disregard for the plight of the industry, and its deliberate high interest rate policy, have brought the industry to its knees. Any effective and sustained recovery of the housing industry requires an acknowledgement that high interest rates are the prime culprit. To reduce high interest rates, we must reduce the federal budget deficit and monetary policy should be modifed. In particular, we must take steps to eliminate the enormous deficits the President has proposed for 1984, 1985 and beyond. Only when we are clearly on a course that leads to a balanced federal budget can we expect long-term interest rates to decline.

While a decline in long-term interest rates is essential to a sustained recovery of the housing industry, the current condition of the industry is so critical, the danger of collapse so great, that we cannot wait until the financial markets becomes satisfied with federal budget policy to begin treatment.

To avert a collapse of the housing industry and to cushion the pain to homeowners victimized by the Reagan recession, we recommend the following immediate actions:

Emergency Mortgage Protection: To prevent default and foreclosures by homeowners thrown out of work by the Reagan recession. Those who have had the great misfortune of losing their jobs should not also have to lose their homes.

Homeownership Assistance: Mortgage interest assistance to moderate income buyers, especially "baby boom" generation first-time homebuyers, adjusting unprecedented interest rates to more affordable levels.

Thrift Institutions: Programs to strengthen the financial stability of home mortgage lending institutions and to ensure the availability of home mortgage loans at reasonable levels.

To prevent further erosion of the housing market we reject efforts by the Reagan Administration to cut additional housing programs that are working. Within reasonable budgetary limits, we must maintain our commitment to expanded rental construction, vital rental assistance and homeownership loans for rural communities, quality in public housing, and to the government sponsored credit institutions which have been the keystone of our housing policy.

II. A housing credit policy that enables the middle class—especially first-time homebuyers—to overcome barriers to homeownership. Our goals are:

To increase homeownership opportunities, particularly for first-time homebuyers. New methods of credit support should be explored to enable these families to overcome barriers of affordability. The low downpayment, long-term, fixed-rate mortgage should not be abandoned. At the same time, we recognize the necessity of removing impediments—provided there are adequate consumer safeguards—to the use of alternative mortgage instruments such as adjustable rate, shared appreciation and graduated payment mortgages.

To respond to the needs of rural Americans, whose access to financial resources for homeownership has long been inadequate.

To support federal credit agencies and secondary markets which assure the availability of mortgage money. These include the credit programs of the FHA, FmHA, VA, GNMA, FNMA and FHLMC. Reform of these programs must be consistent with our goal of guaranteeing adequate access to mortgage credit.

To develop new sources of capital to finance housing. In particular, we would remove unreasonable statutory and regulatory barriers to private pension fund investment in primary and secondary mortgage instruments, and would provide attractive incentives for such investments, in a manner consistent with sound fiduciary policy.

III. Policies that assure the production of an adequate supply of housing, particularly rental housing. Our goals are:

To stimulate rental housing production by assuring that capital will be available at affordable rates.

To support federal assistance for direct production programs in areas of housing shortage or otherwise inadequately served

by the private market, including inner cities, rural areas, and Indian and migrant farm worker locations.

To clarify the issues surrounding tax-exempt financing for housing, especially Mortgage Revenue Bonds. This source of low-cost capital should be available to the extent intended by Congress. We recognize the particular usefulness of this type of financing for single family and multi-family dwellings in the absence of adequate levels of direct federal spending for housing assistance.

IV. Adequate funding of programs which meet the special needs of elderly and low income families. Our goals are:

To assure low income familites of access to adequate, affordable rental housing and to homeownership as well, where feasible. Design standards should be responsive to the needs of the elderly and the handicapped.

To guarantee consumer assistance payments in rural and urban areas to low income families, senior citizens, and handicapped and Indian and migrant farm workers. Assistance should minimize the displacement of elderly and poor citizens whose apartments and neighborhoods are threatened.

V. Assistance to preserve and revitalize public and assisted housing, to maintain the infrastructure of the nation's rural and urban areas, and to promote community and economic development. Our goals are:

To preserve and revitalize existing housing. The federal government should provide adequate levels of support for low income and public housing. We will examine appropriate incentives for rehabilitation.

To revitalize urban centers and economically depressed rural communities, through government economic and community development assistance in a close and cooperative partnership with the private sector.

To improve and upgrade aging roads, transportation, water and sewage systems. Without essential maintenance, communities will deteriorate and investments made over the years will prove in vain.

Through preservation, revitalization and economic development programs, we can achieve suitable living conditions in order to promote a sense of community and cultural well-being.

Finally, we pledge to continue to battle all forms of discrimination in housing. Housing opportunities must not be denied to any person on the basis of race, religion, color, national origin, sex, or marital status.

CONCLUSION

In 1949 Congress declared, and in 1968 reaffirmed:

. . . That the general welfare and security of the Nation . . . require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of sub-standard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American.

In 1982, we reaffirm our commitment to these basic housing goals for urban and rural America. We reject efforts to destroy the progress that has been made, decimate the foundations of federal housing programs, and undermine a cherished aspect of our way of life—decent, safe and affordable housing for our people.

REBUILDING THE ROAD TO OPPORTUNITY: RENEWING THE ENTREPRENEURIAL SPIRIT IN AMERICA

(Introduction by Parren J. Mitchell, Chairman)

To renew and expand America's dream of work, fairness, betterment and security, the Democratic Party believes that special emphasis must be given to protecting and nourishing one vital sector of the economy—our nation's independent, small businesses. The Reagan economic policy of favoring the wealthy and the powerful not only is unfair; it also is bound to fail because it damages the independent entrepreneur, the family farmer, the small town banker, the home builder, the inventor, the minority business firm, and all those whose initiative and vision are the seed bed of this Nation's economic structure. The Democratic Party recognizes that no economic policy will succeed unless it creates an economic climate where small businesses flourish and prosper.

America's small businesses are especially vulnerable to the ravages of the current, misguided economic policies. The failure of Reaganomics nowhere is more evident than in its disastrous impact on America's independent entrepreneurs. Rather than ignore the suffering of America's small businesses, the Democratic Party believes that we must rely on the unique strengths of such businesses to lead us on the road to economic recovery.

The plight of the Nation's independent businesses is not simply the result of an economic policy that subjects all businesses to a trial-by-fire in which only the large and well connected are likely to survive. Certainly any economic policy that produces astronomically high interest rates and widespread unemployment will hurt small businesses more than larger businesses. The Reagan Administration, however, has adopted policies that provide an additional advantage to large corporations and conglomerates at the expense of the independent entrepreneur.

The Democratic Party has a balanced program to promote long-term economic growth with fairness. To ensure that small businesses receive their fair share of benefits under this long term policy, the policy must be supplemented with special programs targeted to the unique strengths and needs of small business. Small businesses want only an open opportunity to compete in the market place but this requires an elimination of the artificial preferences given to large businesses by the Republicans. The Democratic Party believes in an even-handed policy that permits the market place to determine whether a business, small or large, will prosper or wither. We propose a number of measures which will aid small business and thus the health of the country's economy, including: tax reform, adequate funding for research and development, open and vigorous competition, fair procurement opportunities, reduction of bureaucratic regulations, and credit assistance.

The Democratic Party wants to build an economic recovery on the strength and vitality of America's small business. This economic strategy is both the fairest and the most effective. When small business suffers, most Americans suffer and when small business prospers, most Americans prosper. To maximize the potential of small business, the Democratic party is committed to government policies that free small business to compete fairly and fully in every sector of the economy, with vigorous government action to protect small businesses from discriminatory and unfair competitive practices, and with government incentives and assistance where small business need and request it.

REBUILDING THE ROAD TO OPPORTUNITY: RENEWING THE ENTREPRENEURIAL SPIRIT IN AMERICA

To breathe life into the American values of work, fairness, betterment and security, the Democratic Party believes that special emphasis must be given to protecting and nourishing our nation's independent, small businesses. The Reagan economic policy of favoring the wealthy and the powerful is not only unfair; it also is bound to fail because it damages the independent entrepreneur, the family farmer, the small town banker, the home builder, the inventor, the minority business firm, and all those whose initiative and vision are the seed bed of this Nation's economic growth. The Democratic party recognizes that no economic policy will succeed unless it creates an economic climate where small businesses flourish and prosper.

THE PROBLEMS AND POTENTIAL OF SMALL BUSINESS

America's small businesses are especially vulnerable to the ravages of the current, misguided economic policies. The failure of Reaganomics is nowhere more evident than in its disastrous impact on America's independent entrepreneurs.

In 1982 small businesses are failing in record numbers and at record rates, the highest numbers and rates in nearly fifty years. Business failures are running at twice the 1980 rate and three times the 1979 rate. At current rates, 24,000 businesses will fail in 1982. More than 17,000 failed in 1981. An estimated fifteen percent of America's small businesses are at risk of failing. A chain reaction of failures is occurring, starting with retailers and spreading to wholesalers and manufacturers.

Small business debt is at its highest level since World War II. Due to increased competition for capital, from the government and large corporations, loans to cover this debt are not available for many small businesses at any cost. When loans are available small businesses face crushing interest rate payments, now running near historic postwar highs at more than twice the average interest rate in real terms that small businesses are accustomed to paying.

Profits for small corporations have declined by at least 30 percent in just the last year.

In real terms farm income is at the lowest level since the Great Depression.

The impact of record interest rates on the value of the dollar has weakened the competitiveness of the U.S. exports and increased domestic competition from imports.

Rather than ignore the suffering of America's small businesses, the Democratic Party believes that we must rely on the unique strengths of such businesses to lead us on the road to economic recovery. Small businesses are less able to protect themselves when capital is scarce and markets are declining, but, when the deck is not stacked against them, small businesses can compete at the cutting edge of economic progress. America can and must rely on its small business sector to contribute to a reversal of the Republican-produced recession and to promote long term growth.

Small businesses are prolific sources of new jobs in our economy. It is estimated

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that more than 80 percent of new jobs are provided by businesses with fewer than 100 employees and most of these jobs are with firms that are less than five years old. More than half of our labor force currently is employed by small businesses.

Through its inventive talents, flexibility, and willingness to take substantial risks, small businesses generate more innovations per research dollar—one estimate is twenty four times as many—than medium or large businesses. Small companies and individual entrepreneurs produced half of the most significant new industrial products and processes since World War II, generating these innovations from a scant three percent of total U.S. funds spent for research and development in those years.

Small businesses provide women, Blacks, Hispanics, and other minorities, as well as Vietnam veterans, with greater access to the nation's economic mainstream.

Even more important than its economic strengths is what small, independent businesses represent—the ideals of resourcefulness and hard work, a personal commitment to employees and suppliers and customers, and the resistance to stifling bureaucracy. The free enterprise system and our democratic process itself are intimately connected with the ability of independent businesses to follow their economic star. America works best—and democracy works best—when businesses are masters of their own fate—their own bosses. That is the essence of freedom in America, both economic and political.

REPUBLICAN NEGLECT AND FAVORITISM

The plight of the nation's independent businesses is not simply the result of an economic policy that subjects all businesses to a trial-by-fire in which only the powerful and well connected are likely to survive. Certainly any economic policy that produces sustained, record high interest rates and widespread unemployment will hurt small businesses more than larger businesses. The Administration however, has adopted policies that provide an additional advantage to large corporations and conglomerates at the expense of the independent entrepreneur.

While small businesses produce roughly half of all the goods and services in this country, the heralded business tax cuts of the Reagan Administration principally cut taxes for big businesses, not for the struggling small businesses most in need of a break. Several studies found that small corporations received less than 10 percent of all the business tax reductions under the tax bill.

In 1982, a time when many small businesses are literally in a race for survival, the Administration cut six government programs which have provided financial assistance to small businesses by more than one-third. In 1983, it proposes to cut this assistance an additional 30 percent and to completely eliminate all direct loans to small businesses including all loans to businesses owned by or employing handicapped persons and those to minority-owned businesses. Loans to help small businesses recover from natural disasters have been severely curtailed and many small businesses have been declared ineligible. Assistance the government used to provide to small businesses to overcome economic injury which the government itself caused is no longer available. Acting by bureaucratic fiat the Reagan Administration has terminated all financial assistance to help small businesses comply with government pollution regulation and has eliminated the only government program directed at assisting women start and manage small businesses.

Despite the devastating impact of high interest rates on small businesses, the Administration continues to support the tight money policy of the Federal Reserve Board and accepts record high government deficits for which the government must borrow over half of all available capital.

The Republican Administration has given the largest corporations the green light to take over the most successful small entrepreneurs, increasing the concentration of economic power in the hands of a few mammoth corporations. This reduces competition and local ownership, drains scarce capital away from more productive uses, and ensnarls the acquired companies in layers of conglomerate bureaucracy and redtape. The Administration also refuses to protect small businesses from unlawful price discrimination by monopoly concerns and has proposed repeal of the Robinson-Patman Act.

When the survival of many minority small businesses is in doubt, the Reagan Administration has not taken action to provide over $75 million in loans that Congress has directed that the Small Business Administration make available to minority small businesses. After trebling its share of government procurement contracts in only five years, minority small businesses now are threatened by the Reagan Administration with arbitrary actions that bar $250 million in contract support for twenty-three minority firms, resulting in layoffs of most of their 7,500 workers, many of whom are minority group members.

This Republican program of neglect and favoritism for the powerful protects the entrenched interests of yesterday, not the needs of tomorrow. Unfortunately, the failure of this policy victimizes small businesses in every state and city in the country.

AN EVEN-HANDED DEMOCRATIC POLICY FOR SMALL BUSINESS

The Democratic Party has a balanced program to promote long term economic growth with fairness. To ensure that small businesses receive their fair share of benefits under this long term policy, the policy must be supplemented with special programs directed at the unique strengths and needs of small business. Small businesses want to be given only an opportunity to compete in the market place but this requires an elimination of the artificial preferences given to large businesses by the Republicans. The Democratic Party believes in an even-handed policy that permits the market place to determine whether a business, small or large, will prosper or wither.

The Democratic Party has already demonstrated intensified interest in the promotion of small business goals. A Small Business Council has been established, already with over 40 small business entrepreneuers from across the country participating, to forge closer links between small business and the party. Apart from serving in a liaison capacity, the Council will develop policy positions in the following areas: Regulation and Antitrust, Financial Assistance and Capital Formation, Urban and Rural Development, Tax Policy and International Trade. Democrats in Congress have already begun to formulate specific recommendations in these and other areas.

Tax reform

Fair and equitable tax policy for small businesses must be approached on two fronts. For the short term, we must remove provisions in the current tax code which favor large corporations at the expense of small businesses. We must also develop innovative techniques to provide small businesses equal access to capital markets. Steps that should be carefuly considered include the following:

Allowing small businesses to transfer a portion of the interest payment on start up loans to the lender, this modified form of safe harbor leasing would stimulate the formulation of new firms at relatively little cost to the Treasury.

Allowing new firms a tax credit for start up investments.

Deferring capital gains liability on the sale of a small business when the proceeds are reinvested in the equity of another qualified small business, or an individual, partnership or corporation investing directly in a qualified small business could receive a special tax credit.

Designing a new type of negotiable debt instrument, the Small Business Participating Debenture. Interest payments, like dividends, would reflect the company's profit. Small companies would not have to surrender equity to the lender, but the lender could participate in the earnings growth of the company and treat the interest payments as capital gains income.

Eliminating current tax incentives for large firms to acquire successful small businesses.

For the longer term, we must begin an effort to reduce marginal tax rates, broaden the tax base and simplify the maze of tax code provisions and regulations which choke small business and stymie investment incentives.

These tax proposals would go far to provide the extra measure of capital that can be so crucially important to small business.

Research and development funding

Small businesses are primary sources of innovation in our society. This reality, however, has no apparent effect on government policy when it comes to distributing government research and development funds. Despite their contributions to the vigor of the economy, small businesses are consistently overlooked and neglected by federal government research and development agencies. In these times of tight money when business capital is virtually nonexistent or available only at exorbitant interest rates, the federal dollar directed for the improvement of this nation's productivity should clearly be spent where it will do the most good. In order to maximize the great potential of small technological and scientific firms, Democrats authored legislation this year requiring that small business be given its fair share of federal research and development contracts. This legislation must be implemented without delay.

Promotion of competition

Reagan Administration Assistant Attorney General William Baxter stated just last year: "There is nothing written in the sky that says the world would not be a perfectly satisfactory place if there were only 100 companies . . ." With the Administration so predisposed against open competition, small business will gain precious little from the Reagan Administration. The Democratic Party strongly repudiates the Reagan anti-competitive, anti-small business frame of mind.

To prevent unfair competition from conglomerates and other large corporations, the Democratic Party supports vigorous enforcement of the anti-trust laws, especially

the Robinson-Patman Act prohibitions against unfair price discrimination. Where communities suffer because absentee owners abandon local businesses, the government should encourage and aid local groups and employees in buying back the firm or in making investments to avoid closing of the facilities. Procedures and requirements for bringing class action antitrust suits by individual small businesses should be modernized. Most important, there should be continuous scrutiny of the local economic and social impact of conglomerate mergers, leading to strengthening of the antitrust laws to prevent anti-competitive mergers and acquisitions.

Federal procurement opportunities

Small business receives less than one-quarter of all Federal procurement dollars. When large firms win contracts, small businesses are not given adequate opportunities to compete for subcontracts. The Democratic Party believes that small businesses should receive assistance in preparing bids and specifications for Federal contracts and adequate time to prepare their bids. Wherever possible, contracts should be let on the basis of competitive bidding, not awarded through private negotiations in which small businesses may not participate. Agencies should not discriminate against small businesses through onerous pre-qualification requirements. Democrats are taking the lead to require the government promptly to pay its contractors or pay interest during any delay. Correcting these abuses in procurement policy will encourage more small businesses to participate in Federal procurement actions, benefiting the entire economy.

Elimination of red-tape

Small businesses do not have the accountants and lawyers to cope with the voluminous maze of Federal paperwork requirements. While the government must ensure that businesses and individuals meet their tax obligations, the tax paperwork that the government has imposed on small businesses reduces the profitability of these businesses, thus reducing the taxes that ultimately are paid. Many other paperwork and regulatory obligations actually reduce the degree to which small businesses can meet the legitimate regulatory goals set by the government. The Democratic Party recognizes this irony and believes that the government must eliminate those paperwork and regulatory obligations that are counterproductive and unnecessarily restrictive. But, unlike the Republican practice of conducting secret negotiations where only the privileged can participate, the Democratic Party believes this review and revision of government rules must be undertaken in the open, using such procedures as are promoted in the Regulatory Flexibility Act, a law sponsored by Democrats in the last Congress.

Small businesses must be given ample notice of government consideration of regulatory policies so they can give fair warning to the appropriate agency before it adopts an unwise, overly burdensome regulation. Small businesses must be consulted about how to reduce existing regulatory burdens, as they were in the White House Conference on Small Business held by the Carter Administration. The Equal Access to Justice Act, a Democratic proposal enacted into law in the last Congress, must be fully implemented so that the government will carefully consider taking enforcement actions against small businesses or reimburse small businesses for their costs and attorneys fees when the government brings frivolous enforcement actions against law-abiding businesses.

Development of international markets

There are vast new markets to be tapped for small businesses through internatioal trade. Traditionally, small businesses have been unable to compete effectively in the export market. Less than 10 percent of U.S. firms account for 80 percent of our total exports. Yet with assistance thousands of small firms have the capacity to increase U.S. exports. Establishment of export trading companies, as Democrats in Congress are proposing, would encourage small businesses to enter world markets. Such companies could provide financing, risk insurance, and market research to small businesses. This program would bring benefits to the entire economy.

Employment training and placement

The government should rely on small businesses to supply needed jobs to reduce unemployment. Given the proper incentives small businesses would hire the unskilled or displaced workers and train them as productive members of the labor force. A targeted jobs tax credit would be one approach. Yet, the jobs tax credit as currently structured is ineffective for small business since nearly half of the firms with capital assets under $5 million do not pay income taxes against which the credit would apply. Complex certification procedures further diminish the incentives of the jobs credit. With reforms this credit will open entry-level jobs to workers who would not ordinarily be hired, without disrupting employers normal procedures for hiring and training.

Credit assistance

Finally, small businesses, especially those owned by women and minorities, often are unable to obtain financial assistance from banks because of the absence of a "track record" for such firms and the lower profitability for the bank on smaller loans. Without such financial assistance, establishment of new firms and expansion of existing ones is discouraged. This prevents small businesses from serving as the nation's "job creator." The Federal government must take steps to ensure that viable small firms can obtain necessary financial assistance so that they can provide employment and opportunity to those without it under the Reagan economic policies.

The Democratic Party wants to build an economic recovery on the strength and vitality of America's small business. This economic strategy is both the fairest and the most effective. When small business suffers, most Americans suffer and when small business prospers, most Americans prosper. To maximize the potential of small business, the Democratic Party is committed to government policies that free small business to compete fairly and fully in every sector of the economy, with vigorous government action to protect small businesses from discriminatory and unfair competitive practices, and with government incentives and assistance where small business needs and requests it.

REBUILDING THE ROAD TO OPPORTUNITY: EXPANDING THE ROLE OF WOMEN IN OUR ECONOMY

(Introduction by GERALDINE A. FERRARO, Chairwoman)

American women have made great strides toward achieving economic equity in our society. Through a steady drum beat of initiatives, Democrats have led the way in helping women gain their political and economic rights.

At this juncture in our history, however, economic equity for women—today's central focus—is stalled. Although more women are working outside the home than ever before, they are earning wages which average just three-fifths of the pay earned by men. As a result, women lose out on Social Security and retirement benefits and are far more likely than men to live in poverty.

Effective education and training programs, coupled with vigorous enforcement of laws barring discrimination could free women from the double bind of low wages and meager retirement benefits.

What has been the Reagan Administration's response?

The Republican Administration has mounted a concerted attack on programs and policies which have improved educational equity for women. The Administration has curbed job training programs that could prepare women for better paying jobs now and in the future.

While depriving women of a viable economic future, the Reagan Administration has also deeply cut the programs women and children depend on. Women and their children are the vast majority of food stamp recipients, subsidized housing residents, Medicaid patients. So it is women and their children who have been disproportinately harmed by the sharp reductions made in these programs in the federal budget.

The Democratic Party has consistantly supported the Equal Rights Amendment, which the Republicans have spurned. The Democratic Party is committed to a Constitution, a society and an economy which treat women fairly.

REBUILDING THE ROAD TO OPPORTUNITY: EXPANDING THE ROLE OF WOMEN IN OUR ECONOMY

America leads the world in social and economic opportunity for women. Women are an integral part of American society, playing a vital role that is only a distant dream for most of the world's female population. Yet, women in our nation have had to fight every step of the way for their current status and true equity still eludes them. The achievement of equity for women has been gradual and piecemeal, which is to say, slow.

It took 133 years for women to win the right to vote. It took more than a century for women in many parts of America to gain the basic right to sign contracts and own property. Women are fighting today to have their equal rights as citizens recognized in an Equal Rights Amendment to our Constitution. The Democratic Party has been a staunch advocate of the ERA and the political equality of American women.

Today, political equality alone is not enough. In 1982, more than two centuries after the Declaration of Independence, women are still restrained by a system of laws and regulations that deny them equal access to economic opportunities. Democrats believe that, today, women's economic equity is the paramount issue not only for women but for the men and children whose lives are inextricably linked with theirs.

Democrats reaffirm their historic commitment to economic equity and apply it particularly to women, even as the Reagan Administration abandons the principles for which we have fought.

In this centenary year of the great Democrat Franklin D. Roosevelt, it is fitting to

recall his words: Democrats do not destroy ambition, nor seek to divide wealth into equal shares, but allow the individual to obtain a proper security, a reasonable leisure and a decent living throughout life.

Democratic Administrations and Congresses have promoted job equality, fought for educational opportunity, strongly and consistently supported the Equal Rights Amendment, established infant and child health programs, and defended Social Security benefits.

By contrast, the Reagan Administration has declared war on these fundamental programs, moving swiftly to weaken the laws which enforce fair employment, to diminish education and job opportunities, to axe programs for pregnant mothers and children, to disown the ERA and to eliminate the minimum Social Security benefit.

The need for economic equity for women is especially acute today. Most women work because of economic need. Millions are struggling to keep themselves and their families intact. There are 9.4 million American families headed by single women. Fully 34.6 percent of them live below the national poverty level, compared to 11.2 percent of all families living in proverty. Amazingly, nearly all of the programs particularly relevant to women's economic lives have been targeted by the Reagan Administration.

Today, two-thirds of the women in the work force are single, widowed, divorced or, though living with their husband, required to work to keep their families above the poverty level. Nevertheless, women earn on the average only 19 cents for each dollar earned by men. This is unjust and a national disgrace.

The Democratic Party believes our country can do better. Our party is proud of the key role we have played in pressing for equality for women. We are determined to expand the ideals of fairness to encompass economic equity. Specifically, we seek more progress in the following areas: retirement and pension benefits; education, job and business opportunities; the elimination of poverty, and adequate health care and nutrition.

BACKGROUND

Government policies have been vital to the progress we have made toward equality for women. Where government has affected issues crucial to women and family—whether the issue is war and peace, equal pay and equal credit policies, access to higher education, or concern for healthy children—the Democratic Party has shown the way.

Legislation, spearheaded by Democrats, has advanced the principle of equity for women in these four vital areas:

I. Fair Retirement Benefits:

Protection the minimum Social Security benefit.

Reformed pension laws which penalized widows who remarried after age 60.

Established women's claim to spousal retirement benefits upon divorce.

II. Equal Education, Job and Business Opportunities:

Made student loans widely available and discouraged sex discrimination at schools receiving federal aid.

Initiated and vigorously enforced equal pay for equal work laws and fair hiring and promotion practices.

Developed programs to train women in the skills needed to succeed in small business.

Brought equity to consumer credit laws.

III. Elimination of Poverty:

Focused job training programs on women in the greatest need, including those forced to reenter the work force by widowhood, divorce, abandonment or illness of their spouse.

IV. Affordable Health Care:

Promoted new systems of health care for middle-class families designed to hold down health costs.

Established the principle of neutrality and equity in disability pay and fringe benefits for pregnant women.

Improved rural health services and fostered urban health clinics focusing on preventive medicine.

Invested in healthy children through nutrition and immunization programs.

POLICY GUIDELINES

I. Fair retirement benefits

Elderly women deserve an untroubled retirement regardless of whether they have lived their lives as full-time homemakers, worked in the paid labor force or combined the two roles. They are also entitled to financial security regardless of changes in their marital status.

Democrats are committed to achieving this goal in all areas of old-age security—Social Security, other public pension plans and private pensions.

Older women tend to be poorer. In fact, in the age group 65 and over, 2½ times as many women as men live in poverty.

There are a number of reasons for this. Women, on the whole, live longer. They are likely to have worked outside the home for fewer years than men and at lower paying jobs. And they are less likely to have access to private pension benefits and so are more dependent on Social Security as their sole or major source of income.

Social Security

The Democratic Party firmly believes in the principles on which the Social Security system was founded in 1936: to provide a supplemental income to families in case of retirement, disability or death.

But we recognize how conditions have changed in 46 years. When Social Security was established, it was assumed that the husband would be the family breadwinner and the wife a full-time homemaker and that divorce would be rare.

Today, more women than ever before are combining homemaking and paid employment. Some 47 percent of married women now work outside the home. Soaring divorce rates have caused more women than ever to become the sole support for their families. And because women have longer life expectancy, they are likely to depend on Social Security for a longer period of their lives.

The Social Security system has not responded adequately to the changed conditions of women's lives.

Both women working outside the home and homemakers confront a no-win Social Security situation.

A working spouse is entitled to benefits based on his or her employment record or as the dependent of his or her spouse, but cannot receive both benefits. In practice, this poses a far greater problem for women than for men.

The work women do is often undervalued, with women's pay averaging three-fifths of men's. This means women retire from the work force with a much lower earnings record on which their Social Security benefits will be based. And women are more likely to move in and out of the work force, in order to bear and rear children, creating service gaps which can also reduce eventual Social Security benefits.

So, in practice, a woman would usually have to choose her husband's benefit level. In doing so, however, she relinquishes any claim to the contributions she herself made to the Social Security system during her working years.

But what of the homemaker? The benefits paid to one-earner couples—traditionally a working husband and stay-at-home wife—are lower than those for two-earner households. This is a clear indication of the lack of regard for the value of the work performed by homemakers.

The divorced woman also faces benefit problems. She is entitled to dependent benefits only if the marriage lasted ten years. The divorced mother is ineligible for dependent benefits during child-rearing years. Similarly, widows under age 50 are ineligible for survivor benefits and must wait to 65 to receive full benefits.

The system must not continue to penalize women, especially elderly women who are 72 percent of the elderly poor. This group depends on Social Security as its sole means of support, receiving benefits which average $240 a month.

Last year, Democrats fought to halt an Administration effort to eliminate minimum Social Security benefits, restoring benefits for those currently on the rolls. Of the 3 million recipients receiving this $122 minimum benefit, 2.3 million are women.

We are committed to the principle that Social Security must recognize marriage as an economic partnership. We believe that homemakers contribute to the economic well-being of the family. We feel working women should not be penalized for taking time out to engage in homemaking and child-rearing. And we affirm the right of widows, disabled women and elderly divorced women to live out their lives in decency and dignity.

We are deeply concerned about the solveny of the Social Security system and its ability to provide a safe retirement harbor for the Americans of future generations. But reductions in benefits which worsen financial inadequacies and intensify present unfair practices affecting women are not the way to achieve this worthy goal.

Public and Private Pensions

Other types of public and private retirement plans also fail to meet the legitimate needs of women.

Private plans which allow workers to vest only after 10 years of continuous service penalize women who leave the work force temporarily to raise children. Plans which require employees to be at least age 23 have the same effect. And plans available only to full-time workers overlook the fact that almost 30 percent of the women in the labor force work part-time.

Despite recent efforts to reform private pension plans, many homemakers are not aware that their husbands have opted against survivor benefits. So these widows may receive nothing at all should their husbands die before retirement age.

The government itself is unfair to the widows and divorced spouses of many government workers. Military pensions provide the most glaring example of unfairness. A recent Supreme Court decision held that a military wife has no right to share in her ex-husband's pension after a divorce. This may place these women and their dependent children in financial jeopardy. Many military wives work outside the home. But, with their constant transfers, most have had to settle for low-paying jobs offering little hope of advancement or pensions.

Democratic legislation has been introduced to rectify this situation.

II. Education, job and business opportunities

Young people are our future and education is their future. It is with great pride that Democrats have led the fight to give young men and women equal access to our educational institutions.

The U.S. Supreme Court this spring upheld a 10-year old federal law which requires our higher education institutions to afford full opportunity, both to their female students and their women employees, on penalty of losing federal funds.

The results of these Democratic efforts have been dramatic. Women are 52 percent of all current four-year college students. In 1981, they received half of all masters degrees and a quarter of all professional degrees, up from just six percent a few years ago. Female students are seeing women professors in their classrooms, entering nontraditional fields and taking part in athletic programs once reserved for men.

Another indication of the gains women have made is in the field of science. The National Science Foundation reported last January that the number of women scientists and engineers was up almost 32 percent between 1974 and 1978; but this is proportionally still very low. The Democratic Party supports funding and targeted education programs to enable women and minorities to fill a critical need in the areas of defense, telecommunications and computer science.

Republicans, in contrast, have mounted a concerted attack on student aid programs—programs which have made many of these advances possible.

Job Training

Job training is another form of education. With 10.8 million Americans unemployed, 42.8 percent or 4.63 million of them women, it has never been more important.

Yet the Reagan Administration has already made deep cuts in federal programs designed for job training and retraining and is proposing still more cuts. Women, especially those female household heads most vulnerable to shifts in the economy, are already finding themselves frozen out.

These Reagan policies are not only hurting women today, they show a total lack of understanding of the economy of the future. Economic policy experts are predicting that women, now almost half of the work force, will comprise 60 percent of the work force of 1990. Without women, as well as blacks and Hispanics, properly trained, there will simply not be enough people of working age available to make the economy work.

Today's record levels of unemployment have created an especially desperate situation for those four million homemakers who have been forced into the job market by divorce or the sudden death of their husbands. These displaced women have not chosen to work outside the home and many have never done so.

Homemakers whose lives have been severely disrupted often worked so many years ago that their skills have become rusty or obsolete. They find, on entering the job market, that their evident abilities in running a home or putting in hours of unpaid volunteer work count for nothing. They need counseling, training and job placement help. We believe that this support ought to be available, and that government should help remove impediments to the financial security these women seek.

Credit Policy

Consumer credit not only gives women purchasing power but marks them as responsible members of our economy. The Democratic Party led efforts, culminating in legislation in 1974, to end practices which denied credit to women.

Employment Opportunities

In the 1960's, Democrats made a commitment to ensure equal employment possibilities for women. We passed laws requiring equal pay for equal work and laws prohibiting discrimination based on sex and age. We invoked policies which required federal contractors to make concerted efforts to hire women.

A dramatic change in public attitudes toward women's work has been one result of vigorous Democratic enforcement of these laws and policies. Equal access to job opportunity is not yet a reality, however.

Pay Equity and Comparable Worth

Women suffer two ways in the job market.

First, despite the Equal Pay Act, the Civil Rights Act of 1964 and an executive order issued by a Democratic President, women still do not always receive equal pay for equal work.

Women holding the same jobs as men are paid less. In 1981, the median weekly pay for a woman computer operator was $355, for a man $488. A female elementary school teacher was paid $311, a man $379. A woman engineer earned $371, a male engineer $547.

Secondly, women are overwhelmingly concentrated in jobs where the services they perform are undervalued. Salaries in fields where women predominate are lower than the skills, responsibilities and working conditions demand. This second problem women face in the work force has become known as the issue of comparable worth.

Women holding jobs considered women's work are paid less than men holding men's jobs. In 1979, according to the U.S. Department of Labor, women were 80 percent of all clerical workers but only six percent of all craft workers. Women were 62 percent of service workers—cleaners, waitresses and similar jobs—but just 43 percent of professional and technical workers. They were 63 percent of sales clerks but 25 percent of managers and administrators.

As a result of unequal pay for equal work and unequal pay for comparable work, women continue to earn about 59 cents for each $1 earned by a man.

The Democratic Party reaffirms its commitment to eliminate discrimination by strongly supporting the concept of equal pay for equal work and equal pay for work of comparable value to society.

Enforcing the Law

Instead of redoubling efforts to enforce the laws, the current Administration has gutted them by reducing the budgets of the Federal agencies charged with enforcing them.

The Republican Administration has also retreated from the goal of equal employment. Where inequities emerge—and they do—a legitimate recourse is necessary. The Equal Employment Opportunity Commission (EEOC) is the primary civil rights enforcement agency. Yet, this Administration has rendered it ineffectual by leaving several of its highest positions vacant. The Labor and Justice Departments have also essentially renounced job opportunity policies, replacing class-action suits with tedious and costly case-by-case enforcement.

The Democratic Party reaffirms its commitment to eliminate job discrimination.

Obtaining a job is just the first step toward job fairness and satisfaction. Once employed, women have special concerns about working conditions, benefits and security.

Child Care

Thirty million children, more than half of all children under age 18, have mothers in the work force. We will work with business, labor and government in an effort to promote flexible family-oriented work policies which recognize motherhood—and fatherhood. Today's parents need work options, such as flex-time, job sharing and quality child care, which enable them to give their very best both to their employer and their family.

Organizing Women

At present, only 20 percent of working women belong to labor organizations. That 20 percent, according to recent statistics, earn almost a third more than their nonunionized counterparts. Non-union women are especially vulnerable to job loss recessionary periods and often lack adequate health and retirement benefits. Democrats support and encourage working women to organize and bargain collectively.

Federal Workers

Reductions in the federal work force, known as RIFS, are hitting women and minorities harder than other workers, largely because these groups have only so recently begun to get a fair share of jobs in government service.

Although women are just 33 percent of federal workers, they comprise 44.7 percent of the RIF'ed population. Minorities, who make up 23 percent of federal job rolls, are 34.7 percent of the RIFed. Democrats believe that the increased employment of women and minorities over a decade must not be undone in a matter of months by RIFs. Attrition would be a fairer and more economical way to reduce the size of the federal work force.

Women in Business

The world of business ownership is still a foreign land for most women. Lacking capital, and access to credit, women own just 4.8 percent of the nation's businesses, according to 1977 census data, and account for just one percent of business receipts.

Three years ago under Democratic leadership, a national policy was established to aid and stimulate women's entry into small business. It combined the abilities of the public and private sectors and was administered by a special office in the Small Business Administration. Today, as a result of Reagan funding cuts, this program exists in name only.

III. Eliminating poverty

Some people claim the war on poverty has been won. Democrats know this is a myth. Instead, poverty has become a women's issue.

Figures from the National Advisory Council on Economic Opportunity show that white, male-headed families have been the chief beneficiaries of the two decades of progress between 1960 and 1980 which saw the percentage of individual Americans living in poverty decline from 22.2 to 14 percent.

In 1981, the median income of female-headed families was $10,960, less than half of the median income for all families. According to the Council, if these trends con-

tinue, by the year 2000, all—100 percent—of the poverty population would live in female-headed households. That gives us less than 20 years to put into place policies and resources that could halt this frightening trend.

As a result of their poverty, women and their families must depend for survival on a broad array of social programs.

Women, and in many cases, women and their children, are: 75 percent of all people living in poverty; 69 percent of all food stamp recipients; 67 percent of all Legal Services clients; 66 percent of the residents of subsidized housing; and 61 percent of those depending on Medicaid.

When the Reagan Administration made its 1982 budget cuts it landed blow after blow on the very programs which poor women and their families depend on the most. Seventy percent of the $35 billion in cuts came from programs which affect the poor. This year, roughly 90 percent of the proposed cuts—$23 billion of $26 billion—come from the very same programs.

The "safety net" has unraveled for thousands of poor women and their families, with minority women the hardest hit. When the Administration guts a program like Legal Services it doesn't cut waste but chops off a helping hand of last resort. When the Administration changes the eligibility level for food stamps, it doesn't pare fraud but makes survival more difficult for those trying to feed their children.

Democrats believe the growing number of women facing poverty can and must be helped by effective, efficient social service programs. Fiscal austerity and the "new federalism" must not be used as subterfuges to dilute or eliminate vital services. National problems require national responsibility and Democrats will fight inappropriate attempts to return programs to the states.

IV. Affordable health care

Women are the majority of health care users. They are usually the ones who make sure other family members seek good health care. And, because women generally live longer, the health problems of the elderly are primarily the health problems of women

Women's health needs range from family planning services, which are often the only access to medical care for many poor women, to nutritional programs for pregnant women, to federal programs which finance medical care for needy families and the elderly.

Under Democratic Administrations, the government has responded to changing health needs and the need to control medical costs. Programs have been developed to deal with the new symptoms of female stress—heart disease, ulcers and alcoholism.

Democratic policies have fostered the creation of health maintenance organizations. This new approach provides packages of preventive medical care at lower cost for middle class families. And, along with public clinics in medically needy rural areas and inner cities, they serve women in low-paying jobs that provide negligible medical benefits.

Now all this is in jeopardy. The major federal family planning program suffered a 24 percent budget cut in 1982.

Child Health

Child nutrition programs have helped 2.2 million children and their mothers obtain the properly balanced diet they need to grow into healthy adults. A Harvard public health study has shown that each $1 spent to provide an expectant mother a proper diet saves $3 which would otherwise have been needed to hospitalize babies born with low birth weights. Yet the Administration is seeking to dissolve the child nutrition program into a block grant and reduce overall funding by 23 percent in 1983.

Child immunization can save millions of dollars in extra and avoidable health costs later on. Last year, the Administration cut immunization by 10 percent in real dollars. As a result, vaccine purchases declined by 32 percent, which means that 2 million fewer children were protected against polio, measles, and tetanus.

Medicaid

In 1980, 21.5 million people were covered by Medicaid. Two out of three of these recipients were women. Budget cuts proposed by this Administration, combined with those already in place, would force recipients to pay higher fees for health services and could deprive a million people of Medicaid benefits. The working poor could be forced onto the welfare rolls in order to retain health coverage.

CONCLUSION

As our society has matured, women's needs have changed, followed by their changed expectations. They have chosen new roles and society has adapted. A woman may start life as a homemaker only to find she must go to work to supplement her husband's income or to support herself and her children after widowhood, divorce or abandonment. She may dedicate herself to a career, only to choose motherhood at a later time. A woman in America should be able to expect that, no matter what difficulties life places in her chosen path, they are not compounded by artificial barriers of outworn law or custom.

The Democratic Party is committed to a Constitution, a society and an economy that treat men and women fairly. That is why the Democratic Party supports enactment of the Equal Rights Amendment. The ERA would in a single step, erase some 800 state and federal laws and statutes which have the effect of treating women as less than first-class citizens.

The Republicans once supported the ERA. In 1980, on the orders of their candidate, Ronald Reagan, the Republicans drummed this simple yet important concept out of their party platform.

It was that same Republican platform that contained the following pledge: "We oppose any move which would give the federal government more power over families."

So do we. And we go even further, and pledge not to impose a straitjacket definition on the word "family" for the men and women of our diverse society.

Americans, male and female, have new expectations of what the family means and the financial security it should be able to enjoy. Motherhood and careers outside the home are not mutually exclusive nor should men be required to give up the pleasures of fatherhood in order to support their families.

The Democratic Party has proven its concern not only by its unwavering support of the Equal Rights Amendment, but with a generation of pragmatic legislation and vigorous enforcement of the laws of the land. The Democratic Party will not stand by and watch these achievements destroyed by neglect or outright hostility to the goal of equity for women. Today and in the years ahead, women's concerns will remain in the forefront of the Democratic agenda. Together we have accomplished much; together we shall do what remains to be done.

COMMITMENT AND COMMON SENSE: A RATIONAL ROUTE TO ENVIRONMENTAL PROTECTION

(Introduction by MORRIS K. UDALL, Chairman, and ALBERT GORE, Jr., Vice-Chairman)

A clean, healthy environment is probably this nation's most valuable resource. In the past few decades we have made great strides in protecting, preserving, and restoring the health of our environment. We worked together to pass the Clean Air Act, the Clean Water Act, the Toxic Substances Control Act, the Alaska Lands bill and the Resource Conservation and Recovery Act. We have expanded our national forest and parks, reclaimed lands, cut pollution and enacted important safeguards for the public health. We have done much. Yet, we must do more to ensure a safe, clean world for future generations.

Now, however, we face an unprecedented attack on our environmental laws and policies. The Administration has proposed everything from opening our public lands to oil and gas leasing to cutting the Environmental Protection Agency's budget and staff so as to cripple the enforcement or our environmental laws and render the policies ineffective.

Fortunately, public and Congressional response has prevented the actual implementation of many of the Administration's proposals. There is no mandate from the people of this nation to short-change the environment. A recent Lou Harris poll indicates just the opposite—people want to protect their environment for themselves and for future generations. Yet, the Administration pursues it's ideological course in an open betrayal of the wishes of the American people. In direct contrast to our long history of strong bipartisan support for the environment, the Administration has moved environmental policies into the political arena.

This document presents the Democratic approach to the environment. It emphasizes a sensible approach to environmental policies—as opposed to the haphazard one advocated by the Reagan Administration.

The heart of our democracy rests on the responsiveness of the government to the people. Time and time again, the American people have spoken loudly that they recognize a responsibility to hold this nation's environment in trust for future generations. Even in these times of economic hardship, it is clear that protection of the environment is of critical importance to the people of this nation. Despite this broadly based support, an Administration doctrinaire in its conviction, radical in its policies, and impoverished in its vision has launched an unprecedented assault on the environment.

In fact, it is now clear from their actions that this is an Administration that has broken faith with the American people by abandoning this nation's long standing commitment to environmental protection. Much of this action has been rationalized under a banner of reduced governmental intervention and improved management, but the evidence to date does not support this excuse. The current Administration substitutes rhetoric for management and duplicity for real reform. This is intolerable. The Democratic Party believes that the environment is too important to permit such (in) action. We should move to re-establish the programs that will keep our air healthy to breathe, our water clean to drink, our parks and streams pollution free, and our lands bountiful. The Democratic Party can do no less than to once again take up the unfin-

ished tasks of our environmental agenda. We firmly believe that we can achieve our environmental goals with a strong commitment and considerable common sense. This document states our positions.

COMMITMENT AND COMMON SENSE: A RATIONAL ROUTE TO ENVIRONMENTAL PROTECTION

In the 1970s, the Democratic Congress responded to the challenge to improve the quality of our air and water. It recognized the serious hazards to human health with which we were confronted, and passed amendments to the Clean Air Act and to the Clean Water Act. As the potential danger of synthetic organic chemicals became more apparent, the Resource Conservation and Recovery Act (RCRA) and the Toxic Substances Control Act were passed in 1976 establishing a structure protecting the public against hazardous wastes and toxic substances. At the end of the 1970s, the Democratically led Congress continued to grapple with emerging problems. The "Superfund" legislation was passed to clean up hazardous waste sites, and problems like soil erosion and acid rain (and their impact on agricultural productivity and natural resources) were first considered.

At the same time continuing attention was being paid to the traditional concerns of national park and forest development and conservation of our fish, wildlife and ocean resources. Democratically sponsored environmental programs of the 1970s doubled the number of acres in designated wilderness areas; they vastly increased the protection of wild and scenic rivers in the country; they expanded the national park system to ensure their preservation of parkland for posterity; and they brought sense to American forest policy by more adequately balancing the uses of our forest resources.

We are starting to see results. In many cases, not only has the deterioration of our environment been slowed, it has been turned around, and we are, in some instances, reaping economic benefits from our efforts.

The progress achieved

The amount of lead added to the environment from gasoline has dropped from 190,000 tons in 1976 to 90,000 tons in 1980 resulting in 36.7 percent lower lead levels in the blood of U.S. residents.

The economic benefits from air pollution control have been estimated to range from $4.6 billion to $51.2 billion. This includes economic benefits from improvements to human health, from reduced costs for households, and from reduced damage to vegetation, crops, and materials. Eighty percent of these benefits are in the vital area of human health improvement—fewer illnesses and premature deaths as a result of a 20 percent reduction in total suspended particulates and sulfur dioxide.

Other studies estimate the health benefits alone from air pollution control at $3 billion to $43 billion annually.

EPA has estimated that the current health benefits of stationary source control are at least twice as large as the costs.

Carbon tetrachloride (a toxic organic chemical and a known animal carcinogen) was discovered in Philadelphia's drinking water. EPA identified the source of the contamination and prevented further contamination not only in Philadelphia's drinking water, but in the drinking water of many other cities as well.

Technical assistance from EPA helped Boston discover the source of lead poisoning in its water and prevent further contamination.

The Willamette River, in Oregon, the nation's twelfth largest in water flow, has gone from what was characterized in 1967 as a "stinking slimy mess, a menace to public health, aesthetically offensive and a biological cesspool" to a river teeming with migratory salmon, native trout, and other game fish. Every "Unsafe For Swimming" sign has disappeared and the river is now used for every form of water recreation.

Salmon are now being caught in the Connecticut River. Even though fish ladders were installed in 1968 and the river stocked with over 200,000 young salmon, salmon did not return to the river. The 1972 amendments to the Clean Water Act finally allowed pollution controls to overcome the pollution in the river, and in 1977, the first salmon in over 100 years was caught in the river.

Treatment of industrial and residential sewage has improved dramatically. Whereas almost half of our population was served by wastewater systems that provided no treatment in 1970, by 1978 only a small fraction of the population was served by such systems.

The challenges remaining

An enormous amount remains to be done, however. Thousands of hazardous waste dumps exist in the country; many of whose location and danger are still unknown. Tens of thousands of synthetic organic chemicals are on the market; many of them extremely toxic and their effects scarcely studied. Approximately 600,000 acres of wetlands per year have been lost since the 1950s and barely one half of our wetlands remain. In the nation as a whole, we are losing over five tons per acre of our cultivated topsoil, with even more dramatic losses in the states of Tennessee, Kentucky, Louisiana, Michigan and Iowa. The quality and amount of our water for a variety of uses is threatened in many areas of our country, and air pollution continues to be a major problem.

PRESCRIPTION FOR THE 1980'S: PRINCIPLES OF PUBLIC PROTECTION

It is now possible to envision achievement of our environmental and public health goals. Realization of these goals requires a strong economy that furnishes money and human resources for public protection. While it costs money to protect the environment, the money spent is not "lost", it is invested. Our investment in clean air reduces respiratory diseases. Our investment in clean water promotes the recreation industries based on fishing and swimming. The environmental protection industry itself employs thousands. We believe that the dollar "payoff" from a clean environment more than equals the expenditures on protective measures.

We recognize that over-regulation can slow or even prevent economic growth. However we will not be misled by analyses that link economic problems with regulation and ignore other factors overwhelmingly more important. It is our goal to develop public mechanisms that do not hamper economic growth while still ensuring the achievement of our environmental goals. Our limited resources must be targeted on those problems that most affect the quality of our lives. In short, we must have public institutions that are committed both to maximizing public health and the quality of life, and to pragmatic means of reaching these ends.

Through most of the twentieth century, certain principles established by consensus stood the nation in good stead. We need to return to these principles and reject unpracticed ideology. A judicious mix of public and private action that can be tested, evaluated, and, if necessary, reformulated to achieve the goals of environmental protection which we all desire.

Principle No. 1.—We require correct goals clearly articulated:

We do not apologize for stating our statutory environmental goals in absolute terms; we do want our water to be clean, our air to be pure, and our food to be safe. While there may be some disagreement about the best way to achieve our goals, there is a consensus that our goals should be set with human health as the standard. There also is agreement that, in addition to human health considerations, aesthetics are important. Preservation of scenic vistas, recreation, fishing and boating, and protection of wildlife are a valuable part of our national heritage. Only by framing policies that reflect our true standards can we mobilize the resources to achieve our goals.

Principle No. 2.—Environmental protection and economic growth are partners:

As stated before, a strong economy provides the means to achieve our environmental goals. We believe that environmental protection can be synergistic with economic growth; that environmental protection does not necessarily restrain economic growth. We must be as careful to avoid ill-founded regulations that stifle eonomic growth as we are to avoid short term "live for the present" attitudes that can result in significant degradation to our environment. Once again a judicious sense of balance is needed.

Principle No. 3.—Environmental protection programs need adequate funding:

We cannot equate problem-solving with spending money; alternatively, we will never solve our problems unless we are willing to commit money to the public apparatus we have carefully structured to address them. We do not know just how much money should be available for environmental protection, or how it should compare to that spent for other programs of the Federal government. What we do know is that the principles of "cost-effectiveness" should be applied equally to all parts of our national budget. Not only do we disagree with the Administration's current level of commitment to the environment and to the public health, we believe that we have the ability to allocate substantially more to environmental protection and other domestic programs while still maintaining our national security capability.

Principle No. 4.—Regulations must be reasonable; enforcement must be strong:

We recognize that environmental legislation has produced some regulations which are not currently appropriate. These regulations were (and are) a valuable part of the learning process. However, there have been many challenges in the courts to the scope of these regulations. In an effort to avoid further court challenges, more and more detailed regulations were promulgated having an excessive inflexibility and complexity. We do not believe that such consequences need to persist. In fact, we state categorically our conviction that environmental regulations can be simplified considerably. The rules of the "game" have been clarified and we do not think that there is any doubt about the intent of the enabling legislation. Regulations based on common sense and acknowledging "good faith" efforts can be effective given a strong enforcement capability. Intentional breaking of the law must be punished. The Democratic Party espouses

the words of a famous environmentalist: "Speak softly and carry a big stick."

Proper enforcement of environmental regulations also depends upon regulatory personnel who are not hostile to environmental protection. All too often, the present Administration has chosen its nominees for environmental protection posts from among those whose previous activities and affiliations cast doubt upon their commitment to safeguard our resources and environment. We reject the practice of putting the regulatory and management functions of the EPA and the Department of the Interior in the hands of individuals not noted for their sympathy with the environment and the wise use of natural resources.

Principle No. 5.—Environmental pollution is an interstate problem:

We believe that the proper role of the Federal government is to ensure essential equity of treatment across state lines. We believe that competition among regions on the basis of environmental amenities should be limited. Gross inequities should not be allowed. The Federal government should review state programs only to ensure that *critical* features of those problems lending themselves to local control are accounted for. In most problems, however, industry is correct in calling for a single standard across state lines. Pollution, after all, is an interstate problem. The Federal government must also be willing to provide technical assistance to the states in order that they may tailor their programs to local conditions while following both the spirit and intent of Federal regulations.

Principle No. 6.—Constant reappraisal is essential:

The problems that face us in our environment are complex. Decisions about chlorofluorocarbons, acid rain, toxic wastes, drugs, food additives, and the like will undoubtedly be made without total certainty due to incomplete evidence. While that uncertainty should not cause paralysis; we should, however, continually pursue the best evidence we can muster and update our decisions as new evidence dictates. The willingness to reappraise constantly will keep us from focusing our resources on problems that either do not exist or do not yield to our intervention. Therefore we will expend our resources on the most important problems, and we will create an environment where a regulated industry may assume that the Government will act rationally.

Principle No. 7.—Decisions must be guided by common sense:

In the past ten years, laws have been enacted that require the use of particular analytic methods, such as cost/benefit analysis. We endorse such tools as valuable aids to good judgment when properly and carefully employed; highly useful in the often emotional environment in which environmental and health issues are decided. However, these methods are not universally or even overwhelmingly accepted and should not override good sense. The public supports policies to the degree that they understand their utility.

POSITIVE ACTION

It is important to translate the previously enumerated principles into positive policies. We believe that most of the right legislation is in place; what is required is fair and effective implementation. Thus, a prerequisite to any improvement is that EPA, the Interior Department, and other key Federal agencies responsible for protecting the environment be funded at levels that enable them to fulfill their responsibilities to the American people. We face the difficult task of restoring a capability to act, and a sense of integrity to these agencies. Substantial attrition and politically motivated moves have eroded the professional infrastructure that is necessary for effective programs. We need to begin the slow but necessary job of rebuilding agency effectiveness and with it the public faith in environmental protection.

We recognize that exclusive use of "command and control" regulation to achieve environmental goals is neither the most effective nor the least costly way to achieve these goals. We support development of more flexible regulatory instruments. Although we do not endorse each and every aspect of the recently announced program of emissions trading (that had its origins in the previous Administration), we do endorse the concept it embodies. Strategies like the "bubble policy", if developed with due regard for their impact on the environment, can produce more environmental benefits at less cost.

The previous Administration sponsored research examining markets in "emissions rights" to determine whether this appealing theoretical concept could be implemented. With the present Administration's budget cuts, the momentum behind this effort has all but ceased. This is false economy. Research to develop and implement more flexible regulatory techniques of all sorts should be vigorously pressed forward.

Research is also needed to determine how our environmental enforcement activities can be better targeted. The current campaign of calculated nonenforcement is not "regulatory reform"; it is lawbreaking, pure and simple. But business has a legitimate complaint that enforcement activities are often poorly designed and insufficiently flexible to suit particular circumstances. Environmental enforcement which generates little environmental improvement at the expense of great "hassle" does not, in the long term, protect the environment. Though it is vital to strike a balance between uniformity of enforcement on one hand and a tailoring of enforcement efforts to individual circumstances on the other, flexibility should not be an excuse for inaction or, even worse, contribute to corruption of enforcement officials. We urge that research be sponsored to explore effective enforcement policy.

We want to re-emphasize that while we cannot categorically define the "right" budget for the EPA and other agencies, we do know that the current budgets are unacceptably low. We acknowledge the competing national responsibilities that all responsible decision makers must consider in the budget process, but we unequivocally do not view the heart of the environmental and public health budgets as "discretionary" spending.

Beyond this general guidance, we believe that it is important to be more specific in the following areas:

Hazardous waste; toxic substances; nuclear waste; farmland conservation; national air quality; national water quality; national parks and wilderness areas; fish and wildlife; and global issues.

Hazardous wastes

When the environmentalists of the 1960s first raised the issue of pesticides, we had no idea of the amount and toxicity of the chemicals that had been dumped into thousands of sites around the country. Disasters like Love Canal, however, demonstrated the proportions of the problem so that it can no longer be ignored. In order to ensure that we make quick progress in dealing with these wastes, we support the following:

Vigorous Implementation of Superfund

The first step in the effective implementation of the Superfund legislation is to complete the inventory of hazardous waste sites in the United States. There are thousands of sites which we know are out there, but we do not know just where they are. While this inventory is being completed, we strongly support the prompt and vigorous initiation of clean-up efforts as envisioned by the Superfund legislation. Concurrently, EPA must pursue a vigorous enforcement policy to ensure that those who dumped the wastes are held accountable for reimbursement of the costs of the clean-up.

In spite of an EPA list of the 115 most dangerous hazardous waste sites in the nation, and in spite of an EPA sites inventory containing over 10,000 sites which need further investigation, the Administration asks for reduced Superfund expenditures and is refusing to allocate for clean-up those moneys already appropriated. Consequently, hundreds of millions of Superfund dollars have accumulated and sit idle at the Treasury. At the current pace, it is doubtful that even as few as two hundred sites will be "cleaned up" under the Superfund legislation. We believe that this is intolerable—no new legislation is needed, just effective implementation of existing legislation.

Comprehensive Policy on Disposal of Hazardous Wastes

In conjunction with implementation of Superfund, we need to establish a strong and comprehensive policy on the disposal of hazardous wastes. EPA has embarked on a concerted effort to weaken the hazardous waste regulatory system. It has reduced resources to the point where it will now take almost 10 years to issue permits for the existing 14,000 storage and disposal facilities. Additionally, the regulations themselves are being softened so that the risks to public health and the environment will be significantly increased. We disagree with these policies.

The availabilty of new disposal technologies can be accelerated with the correct incentive mechanisms. We wish to emphasize, however, that particularly in the case of liquid hazardous wastes, if we err in establishing policy, it must be on the conservative side as the potential costs of cleanup can be so large, and the dangers so great.

Emphasize Resource Recovery

We will support R&D in the area of resource recovery. We support state local, and industrial efforts to reduce the overall waste stream and to make more productive use of those wastes that are generated. Appropriate incentive mechanisms as well as a centralized information source should result in one industry's waste becoming another industry's raw material, to the benefit of both industry and society, and with a minimum of government involvement.

Effective Siting

The Federal Government should take the lead by establishing strong guidelines for siting of hazardous waste facilities. Prompt promulgation of good regulations and strong and effective enforcement are the best means to encourage public acceptance of waste facilities. The "not in my backyard" syndrome can, unless counteracted by federal leadership, promote illegal and unregulated dumping of hazardous wastes.

We also endorse a more equitable treatment of on-site versus off-site facilities.

While off-site facilities are more visible, on-site facilities compose the majority of sites; thus more attention needs to be directed toward the problems of on-site facilities.

Elimination of Oversights

The Reagan Administration has proposed that those industrial boilers whose primary purpose is to recover energy rather than incinerate hazardous wastes should be allowed to burn these wastes exempt from RCRA regulation, as these facilities are regulated under the Clean Air Act. The Clean Air Act, however, does not regulate pollutants which might result from incomplete oxidation of hazardous wastes. We endorse the spirit of the proposal but we also feel that the potential dangers have been inadequately controlled. Guidelines on such boilers have to be developed and strong penalties for abuse and "bad faith" actions instituted.

Increased Research and Development

In order to understand and control the problems that hazardous wastes present, we need to have a strong base of technical knowledge. This requires more emphasis on targeted R&D. Areas which require priority study are: the impact upon human health of hazardous wastes, the potential for migration of hazardous wastes from landfills into groundwater, and the hazards of various organic chemicals many of which are not now included on the RCRA hazardous waste list.

Toxic substances: Environmental and occupational health

In recent years, toxic substances in environment as causes of cancer, birth defects, and a wide variety of other health problems have caused intense governmental and public concern. Over 55,000 synthetic organic chemicals are now in commerical distribution, few of which have been adequately tested. To be prudent, our toxic substance policy should include:

Vigorous implementation of the Toxic Substances Control Act of 1976, ensuring that new chemicals are reviewed in the expeditious but thorough fashion by EPA: In addition, EPA must systematically review and test existing chemicals which might pose an unreasonable risk to human health and the environment. New technology and regulatory procedures for the disposal of toxic wastes must be developed.

Increased understanding of the use and limitations of animal testing and the development of alternative testing methods: The regulation of toxic sustances has encountered problems due to misconceptions about animal tests. We need to implement a research program to clear up misconceptions and to develop accurate short-terms tests that will quickly identify the risks of chemicals, thereby reducing our dependence upon long-term and costly animal bioassays.

Prudent management of toxic sustances in occupational settings: We believe that the burden of protecting workers from exposure to toxic substances in the workplace must be borne by industry. The voluntary nature of exposure in the workplace makes it necessary that employers assume responsibility to full monitor, study, and minimize worker exposure. If necessary, the federal government should provide technical support in this effort. It is also vital that workers be given free access to all safety and health data on chemicals to which they are exposed.

Policies that pretend to regulate only "unreasonable" risks of toxic substances in the work environment are intolerable. Our knowledge of the toxicological and epidemiological effects of industrial chemicals is simply not sufficiently refined to justify a lax attitude toward occupational exposure.

Nuclear wastes

In addition to toxic substances and hazardous wastes, we believe that nuclear wastes pose a serious environmental threat. Although there are fewer generators of nuclear wastes, the serious hazards and long lives of nuclear wastes militate strong controls. The Federal government, with the participation of the states involved, must provide safe facilities for the permanent disposal of high level nuclear wastes.

A national policy for permanent disposition of these materials must include a federal commitment (with Congressionally mandated deadlines) to developing permanent disposal facilities for both solidified high level waste from our military program and spent fuel from nuclear power plants. Continued reliance on interim solutions for storing these materials is unacceptable.

An effective institutional mechanism is needed to resolve conflict between states with potential repository disposal sites and the Federal government, since these issues affect the health and safety of the public and the quality of the environment. Ultimate decision-making authority for the siting of repositories must rest with the Federal Government through the executive branch and Congress.

The generators of high level nuclear wastes should provide the funds to pay for the construction and operation of permanent disposal facilities. They should also bear the management responsibility and the cost for the interim storage of spent fuel and high level wastes until a permanent disposal facility is ready to accept wastes. The Federal government should, however, facilitate private sector interim storage of nuclear materials by eliminating unnecessary regulatory obstacles to the timely licensing of storage facilities and by development and demonstration of innovative interim storage technologies.

Closely related to the question of disposal of nuclear wastes is the selection of modes and routes for transporting the wastes. While the Federal government has an important role to play in regulating these shipments, particularly with respect to setting standards to require the highest possible degree of safety, close cooperation with state and local governments should be maintained to take advantage of their expertise in selecting transportation modes and routes within their jurisdiction.

Farmland conservation

One of this nation's greatest natural and economic assets is the capacity to produce agricultural products. America, for good reason, has been called the breadbasket of the world. The total volume of agricultural production has risen steadily for decades. During the early 1970s, though, a rapid rate of increase in foreign demand for U.S. agricultural products, especially grain, led farmers to bring nearly all readily accessible land and water resources into production. In addition to expanding the acreage of cultivated cropland, American farmers expanded production by utilizing, per acre, more fertilizer, pesticides, herbicides, and other inputs than ever before. These shifts in the extent and intensiveness of U.S. agricultural production have brought into sharper focus the need for sound conservation policies. Productive agricultural land is being lost each year to erosion and salinization as well as to urban and suburban encroachment. In addition, the impact of agricultural resources degradation is rarely confined to just the farm or watershed where conservation needs are not met; sediment from eroding cropland and rangeland is causing streams and rivers to silt up, as well as destroying fish spawning beds and other wildlife habitat. Sediment entering waterways can also carry organic compounds, such as fertilizers and pesticides, which may cause serious environmental problems downstream.

Based on knowledge gained from a five-year study of the nation's soil and water resources, Congress authorized major conservation initiatives in the 1981 Farm Bill. This bill provides for additional assistance to the nation's most critically eroding areas, loans to farmers for major conservation expenses, and much greater local involvement through encouraging local government conservation activities and the use of conservation volunteers. Rather than ask for funds to implement these much needed new programs, the current Administration has advocated curtailments and elimination of existing programs. As demand for food fiber continues to grow and fresh water becomes an increasingly valuable resource, the Democrats believe that, instead of curtailments and elimination of existing programs, a heightened commitment and fresh ideas are needed to address the following agricultural resource management issues:

Soil Erosion

The problem of soil erosion continues to grow. In 1977, six counties had average erosion rates on cropland in excess of 100 tons/acre. However, erosion rates of 50 to 200 tons/acre are unfortunately common in many regions of the country, especially when unseasonably heavy spring rains come right after planting or when windstorms sweep the Great Plains during a period of drought. Near the bottom of hills, eroding soil cuts gullies which can become so wide and deep that costly engineering work must be undertaken before the field can be farmed again. Eroded soil tends to collect on flat bottom land, filling field and road drainage ditches and silting up ponds and reservoirs. The cumulative impact on agricultural productivity of such losses could devastate the farm economy in more than one region. When averaged across all cropland in America, the rate of sheet and rill erosion in 1977 was nearly 6 tons/acre. Over 6.4 billion tons of soil are lost through wind and water erosion each year.

There are some areas of the country which are experiencing enormous amounts of soil erosion on highly productive land. Areas with extremely high rates of soil loss include Aroostook County, Maine, the eastern bank of the mid Mississippi River, east central Georgia, the Green Hills area of Missouri, the Loess Hills of southwestern Iowa, the Washington-Idaho Palouse area, and the Wiregrass area of southeastern Alabama. The erosion experienced on cropland in these areas is of special concern because these lands are an integral part of each of these regions' agricultural economy. While excessive erosion can generally be halted on marginal, highly unstable lands by converting from row crops back into hay or pasture, such a strategy for highly productive land would impose an unbearably high economic cost. One problem faced by erosion control programs is that the immediate out-of-pocket cost of preventing erosion often outweighs the tangible benefits which accrue to the farmer, at least in the short term. We believe that an investment tax credit for

major conservation expenditures is an appropriate mechanism in order to alleviate this imbalance. In addition, we need to improve development and dissemination of free technical information which enumerates the true costs of erosion and presents effective ways of combatting the problem.

Research and Development

The current agricultural R&D program needs to be revitalized so that resource conservation technologies will be developed in a systematic and cost effective manner. The tremendous potential payoff from agricultural R&D will be realized only if the resulting technologies are useful in modern agricultural production systems. Instead of practices requiring extensive and costly engineering work, we believe a heightened emphasis needs to be placed on low cost conservation practices. When correctly selected and combined, such practices can be just as effective as conventional engineering practices in controlling erosion, but at a fraction of the cost. The importance of conservation research has been recognized by private firms engaged in the development, manufacture, and sale of agricultural inputs such as seeds, machinery, pesticides, and fertilizers. Indeed, many private firms have undertaken major lines of long run research solely designed to foster new conservation technologies. We need to encourage this effort as the federal establishment simply does not have all the right answers nor the sufficient depths of resources to accomplish everything.

Urbanization of Existing Farmland

Along with soil erosion and water conservation, the conversion of agricultural land to other uses continuously affects this nation's agricultural production capability. While past Administrations worked toward a coordinated federal policy to minimize loss of prime agricultural land due to Federal projects, the current Administration has adopted a "do-nothing" attitude. We need to, and will, revive the commitment of the Federal government to minimizing the impacts of its actions on agricultural lands through vigorous implementation of the Farmland Protection Policy Act contained in the Agriculture and Food Act of 1981. In addition, we will explore additional policy alternatives that may be needed in order to staunch the conversion of farmland. One immediate option is full support of state and local governments in their efforts to deal with the problem.

National air quality

The Congress must continue its efforts toward achieving national air quality to ensure the health of the American people. The Clean Air Act was passed to protect public health and the environment. The Act impacts many facets of our society: public health, the economy, energy usage, and employment concerns. Through implementation of the Act, the Nation has made significant progress toward its air quality goals.

The scientific and regulatory issues are extremely complex and different areas of the nation have radically different problems. Having assessed the principles embodied in the Clean Air Act against the lessons we have learned since its passage in 1970, we believe that the current Act has generally addressed the right problems but needs periodic review and reassessment to achieve its objectives and meet society's needs.

In order to ensure that the laws enacted by the Congress are carried out in the manner intended, we reiterate our belief that the EPA budget needs to be strengthened. We also believe the review process for the rejection, approval, or revision of State Implementation Plans (SIP's) should be expedited. In the same vein, we support administrative simplification of the permit system for controlling pollution.

Although scientific uncertainty continues to surround some aspects of the relationship between air quality and human health, we maintain our belief that we must act on the best available scientifically valid evidence because to do less would be to shirk our responsibility to public health. However, we also recommend:

Expanded cooperative efforts between government and industry in the identification and resolution of key scientific problems.

Maintenance of standards that reflect the best scientific evidence.

The continued reassignment of these standards and, if necessary, their revision as the evidence warrants.

Continued review to ensure air quality progress without requirements that might impair our goal of full employment and a strong national economy.

We believe that deadlines for meeting air quality standards are essential to motivate government and industry to seek progress towards air quality standards. However, we support extensions of deadlines in those areas where it is demonstrated that achieving the deadline would impose undue economic hardship *and* if the area can achieve compliance within a specific period.

More evidence is accumulating that suggests that the problem of acid precipitation is more serious than we believed a few years ago. However, legimate concerns exist as to exact causes that are at work and how we, as a country, can best affect them. It is imperative that research continue and that this research be placed on a "fact track". It is also apparent that the problem of acid precipitation is international and that a truly effective program must include other countries. We consequently believe that this research program should include these other countries. We also choose to support positive action toward alleviating the problem of acid precipitation if, in the interim, strong evidence is developed as to the causes and effects. We do not wish to be tied to taking action only after the research program is finished if it clear that preliminary action is warranted.

We support continued research into the toxicity of air pollutants and we believe that toxic air pollutants which pose an immediate threat to public health should be controlled without a delay.

In summary, we must maintain strict health-based standards. We believe that technology should be used to the maximum extent feasible to maintain air quality improvements. The effort to improve air quality must, of course, focus on stationary sources and mobile sources simultaneously. We believe that this policy maintains health and environmental protection as the primary goal of the Act, but permits some flexibility when carried out in the context of society's overall needs. Finally, we must ensure that the implementation of the Clean Air Act results in reasonable and effective regulations that meet society's overall environmental needs, that have an adequate scientific basis, and that are fairly and uniformly enforced.

Efforts to improve water quality over the past decade are beginning to show results; the quality of surface water is no longer declining and most point sources of pollution are gradually coming under control. On the negative side, however, substantial problems remain concerning groundwater, non-point sources of pollution, and industrial treatment of wastes. In order to ensure substantial additional progress, we advocate the following:

Increased attention to groundwater contamination: The problem of groundwater contamination is one of this nation's most serious environmental problems. Because clean-up may be next to impossible, we need to avoid contamination of our groundwater resources. Hazardous wastes and toxic substances pose a grave threat to this resource. We need to assess the human health implications of toxic chemicals now found in drinking water supplies. EPA, under authority of the Safe Drinking Water Act of 1974, should promulgate regulations establishing maximum contaminant levels for the most serious contaminants as quickly as possible.

Continued commitment to control all water pollutants with special emphasis on toxics: Toxic pollutants, whether discharged into streams or into municipal wastewater treatment systems, must be controlled to the maximum extent possible through national treatment standards where feasible. EPA must retain adequate staff to promulgate standards on a timely basis and to enforce the Clean Water Act. The agency must also continue its role in R&D to encourage development of less expensive, more effective technology to preserve and enhance the progress already made in clean-up of the nation's water.

Substantial additional attention must be paid to the operation and maintenance of wastewater treatment plants under EPA's construction grants program including: adequate training for those who design, operate and maintain treatment plants; adequate Federal personnel to investigate, monitor and audit plants and to pursue enforcement actions where necessary; adequate financial assistance to States as they shoulder more and more of the burden of this and other programs under the Federal Water Pollution Control Act.

Proposals put forth by the Administration seek to limit Federal participation, or Federal fiscal "exposure", in meeting municipal cleanup requirements. This shifts more of the cost of complying with Federal clean-up requirements to state and local governments and cuts back the amount of annual Federal aid, but makes no provision for adjustment of the compliance deadlines. Consequently, while the obligation to comply with these deadlines remains, the means evaporate.

Water conservation can significantly lessen the demands that localities must place on finite water resources: Excessive depletion of water supplies has resulted in saltwater intrusion and other serious degradations in water quality. A focus of actions to conserve water should be a strong effort to limit leakage in water distribution systems, particularly in older urban areas. Recent studies show appallingly high losses from leakage, running to millions of gallons a day in many major cities. Efficient use of our limited water supplies demands federal cooperation with state and local governments in bringing this waste under control.

The current administration has made clear its intentions to, at the least, significantly reduce the Coastal Zone Management program: We believe that this program is a valuable one, and we support it. The Coastal Zone Management program encourages states to develop rational plans for

dealing with the often conflicting pressures placed on their coastal areas by increasing industrial, commercial, and recreational demands. The program also provides the states with a means to participate in planning for OCS oil and gas development adjacent to their shores.

National parks and wilderness areas

The National Park System was conceived over 100 years ago and is governed by the National Park System Organic Act of 1916. The key objective of the Act is: "to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations". This statement establishes that protection of natural and historic resources in a *national* responsibility and that recreational use is the intent. The history of that dual commitment since 1916 has been one of consistent bipartisan support.

The Reagan Administration proposes: to defer indefinitely the completion of National Park System units which were supported by the public and authorized by the Congress; to reduce the budget and personnel of the parks; to significantly increase visitor fees; to lower air quality standards around parks; and to increase oil, gas and mineral development in and adjacent to parks. We contend that this is a violation of public trust. We strongly support continued funding for the completion and protection of the National Park System and will work toward enactment of stronger protective measures to preserve natural and cultural resources within the parks.

The current Administration has a similarly misguided concept of management of the national wilderness system. The Administration is preparing environmental analyses for oil and gas leasing in wilderness areas while slashing funds needed to make the analyses meaningful. The Administration endorses legislation that would make it virtually impossible to create new wilderness; is opposing bipartisan efforts to designate areas in at least four states; and has advanced legislation to repeal the permanent protection of wilderness land from mineral development. Finally the Administration hopes to make the President, rather than Congress, the prime decision maker on wilderness policy.

Democrats adamantly oppose these efforts that would open this nation's pristine areas to despoilment and destruction. Even if there were a worldwide shortage of oil or minerals, these areas should be opened to development only as a last resort, and then only by a specific Act of Congress. We support orderly development, where appropriate, of mineral resources on Federal lands. If the Federal government revives its former commitment to conservation of energy, recycling of materials, and development of alternative energy sources, our resources will be sufficient for many years to come. The overwhelming majority of these resources are on the non-wilderness portions of the public lands. The Reagan Administration, ignoring this fact, has broken with the policies of the four previous Administrations by engaging in an open and concerted campaign to undermine the protection of America's wilderness areas.

Fish and wildlife

Wildlife conservation has enjoyed bipartisan support since Theodore Roosevelt. This bipartisan approach has resulted in establishment of the National Wildlife Refuge System through the Alaska Lands Act; development of the Federal Aid in Wildlife and the Aid in Sport Fish Restoration programs which support State fish and wildlife programs; and development of programs to protect wetlands and wetland resources. In contrast to this bipartisan approach which has protected part of this nation's heritage, the Reagan Administration has, in a number of instances, taken actions which will hinder the continued existence of various species in self-sustaining numbers.

The acquisition of new refuges has been virtually halted in spite of the increasing encroachment of developed areas upon wildlife habitat. The Administration has attempted to turn management decisions on the refuges over the agencies over than the U.S. Fish and Wildlife Service in direct opposition to Congressional intent. The listing of endangered species has been halted in spite of an increasing rate of extinctions. Finally, in an effort which could have devastating effects upon our fragile wetlands, the Administration is attempting to eliminate the Corps of Enginers public policy review of the discharge of dredged materials into wetlands. If these trends continue for any length of time, it will be impossible to reverse the conseqeuences.

The Democratic Party therefore strongly supports continued acquisition of wildlife refuge lands and professional management of these lands, with new acquisitions chosen to protect a broad diversity of species—both game and non-game wildlife. We also support and will revitalize programs that support state fish and wildlife conservation efforts and programs that promote cooperation between the federal government and the states, such as the Cooperative Fisheries and Wildlife Research Units. In direct and strong opposition to relaxing protection of this nation's wetlands, we will develop a workable program to acquire more wetlands, and will support integrated efforts by the states to protect existing wetlands.

The issue of habitat conservation does raise difficult questions about the value of species and the size of the population that should be preserved. These questions are not easily handled by cost-benefit analyses. However, Democrats will address these issues even though they are difficult and we will acknowledge their importance even though they cannot be quantified in dollars and cents.

Global issues

On an international level, the Democrats realize that—just as there are problems which states cannot adequately address by themselves—there are problems which our nation needs to address in conjunction with other nations. Many potentially serious problems such as acid rain and carbon dioxide buildup are international in scope since one nation by itself cannot prevent, solve, or escape the effects. Accordingly, an integrated multinational effort is imperative. By the time the symptoms of these problems are self-evident, it may be too late to deal with them effectively. Democrats support immediate strengthening and expending of global environmental monitoring systems such as the United Nations Environmental Program GEMS system. The specific problems to be addressed include carbon dioxide levels and the greenhouse effect, ozone depletion, sulfur and nitrogen oxide, acid precipitation, deforestation, desertification, soil erosion, the disappearance of plant and animal species, ocean pollution (especially from land-based sources), degradation of coastal habitat and international trade in toxic substances.

SECURING OUR STREETS: A DEMOCRATIC ANTI-CRIME PROGRAM

(Introduction by William J. Hughes, Chairman)

There is no problem that strikes more closely to home or is more directly or more intensely felt by the average American than crime. Democrats traditionally have shared the concern of the American people about personal safety and security. Our policy statement on crime develops three basic elements in the national offensive against crime.

First, there must be a comprehensive national strategy to fight crime, which the Reagan Administration has failed to formulate.

Second, there is a need to modify laws on the books to strengthen law enforcement and improve the operation of the Federal criminal justice system.

Third, and most important, there must be adequate levels of funding, equipment, and personnel for the law enforcement agencies of our states, counties, and cities to carry out their job of fighting crime.

The principal responsiblity for fighting crime has always rested on the states and localities. This authority derives from the police power reserved to the states under the U.S. Constitution. We do not propose to alter this responsibility, but we do see a major and positive role for the Federal government to coordinate and assist anti-crime activities by the states and localities. To this end, we have passed legislation to provide federal funds on a matching basis for state and local anti-crime programs that work, such as the prosecution of career criminals (including habitual juvenile offenders), "sting" operations, and arson programs.

Democrats call for adequate funding of all the Federal law enforcement agencies including the FBI, Drug Enforcement Agency, Customs Service, Coast Guard, Bureau of Alcohol, Tobacco and Firearms, the U.S. Marshals Service, and the U.S. Attorneys.

While a full-scale attack on the rising tide of lawlessness must be our highest priority, we cannot ignore the fact that at least some of this crime is the product of a foundering economy which forces people to steal in order to eat. There is crime in good times as well as bad, but whatever a nation's economic policy does, it should not create the conditions where ordinarily law-abiding people are compelled to choose between crime and survival.

Drug Abuse

Of particular concerns to Democrats is the epidemic of drug use of America. The sale, distribution, and use of dangerous and illegal drugs is a tragedy both for individuals and communities. Addicts destroy their own lives and disrupt the life of a community. Unable to hold regular jobs, they turn to crime to subsidize their addiction. In urban areas in particular, citizens live in mortal fear that drug dealers will set up shop in neighborhoods, corrupt the youth of the community, and wage battles over territory in which innocent bystanders are hurt or killed. The enormous profits on drugs garnered by drug traffickers undermine the economy and threatens the integrity of public officials. In many areas, drug-related offenses overwhelm the criminal justice system.

Here again, the Reagan Administration has not adequately used the authority of

the Federal government to coordinate state and local efforts to stop the flow of drugs and combat their use.

The Democrats propose the appointment of a White House coordinator who has the authority and experience to direct an effective Federal anti-drug effort in cooperation with local law enforcement agencies.

The need to cut drugs off at their foreign source has not been effectively addressed by the Reagan Adminstration. This should be an important element in our foreign policy; yet despite the statutory duty that the President is charged with, he has failed to apply the pressure on foreign governments that would cut off the supply of drugs at their source.

At a minimum, the public deserves more detailed reporting by the State Department on its efforts to curtail drug production overseas.

At our borders, we call for the participation of the Department of Defense, through the use of sophisticated military equipment and trained personnel, in the interception of drug shipments to this country.

We deplore the failure of the Reagan Administration to coordinate and improve communication among the many federal agencies with anti-drug responsibilities.

The treatment of drug addicts, which has proven to be an effective weapon against drug-related crime, has been treated by the Reagan Administration as just another discretionary social program. Addict treatment programs have been cut in the face of a national increase in violent crime and burglary.

Federal statutes dealing with drug trafficking and organized crime must be revised and the Federal criminal justice system must be reformed and modernized to provide authorities with the weapons to combat the drug menace and the crimes associated with it. We need new procedures to deny drug traffickers the fruits of their illicit enterprises—mechanisms for the foreiture and confiscation of the profits of drug smugglers and the means used to transport drugs.

Organized crime

Serious efforts to eliminate organized crime are long overdue. Witnesses and victims must be shielded from intimidation at an earlier stage in the investigation of offenses. New Federal laws to combat murder and arson for hire must be enacted.

Protecting law enforcement officials

The Federal government must confer its protection on all Federal officials with substantial responsibilities for fighting crime. This protection must also be extended to the families of these officials to protect them from criminal retribution.

Car theft

With the growth of such illegal enterprises as interstate sale of stolen auto parts, federal jurisdiction is needed to eliminate the practice of theft-on-consignment and the so-called "chop shops" that cannibalize stolen cars and drive up auto insurance rates.

Machineguns

The illegal use of firearms must be restricted by a mandatory penalty for the use of a firearm in the commission of a Federal felony. Laws prohibiting the manufacture and sale of machineguns and silencers which are used for mob assassinations are needed.

Sellers and manufacturers of handguns should be required to report the theft of such weapons to the police so that the guns may be traced when they are used in the commission of a crime. Needless paperwork in the sale or ammunition can be significantly reduced.

Law enforcement cooperation

We must develop a better, more creative working relationship among federal, state, and local law-enforcement agencies.

Criminal justice

Improved information-gathering and an assessment of the danger posed by a defendant to the community ought to precede pretrial release of criminal defendants. If a defendant on pre-trial release commits additional crime, consecutive sentences should be imposed.

Sentencing guidelines must be developed to replace the hit-or-miss system now used to impose and review sentences.

Criminal restitution programs ought to be expanded so that the criminal is forced to idemnify his victim as well as society.

Neither punishment nor rehabilitation can be achieved if prisons are overcrowded and stricter laws will be of no avail if we have no place to put offenders. We believe that immediate steps should be taken to deal with the inadequacy of our prison system. Above all we must do a better job of managing our scarce prison facilities.

Economic crime

Economic crimes exact a toll of $24 billion annually. Insurance and pension fraud cut deeply into family incomes and public revenues and enrich wrongdoers no less surely than street crime. The limitations on the ability of the Internal Revenue Service to share information with investigative agencies must be revised.

Democrats—indeed, no one—can promise an end to crime. What we do promise is a new toughness, a new willingness to foster cooperation among federal and state and local authorities, a new determination to invest in the modernization and improvement of the law enforcement, criminal justice, and penal systems and, above all, a new commitment to reduce to the absolute minimum the insecurity and loss suffered by our people when government neglects its job of protecting them.

SECURING OUR STREETS: A DEMOCRATIC ANTI-CRIME PROGRAM

Just a generation ago, homes in rural and small town America were rarely locked at night. In urban areas, crime encountered was more likely to be shoplifting or juvenile vandalism rather than violent or vicious crime. Polls told us that crime did not even rank in the top ten concerns of Americans.

Times have changed drastically. Rising crime is the number one concern of American city dwellers, and the crimes people fear most are violent crimes—robbery, rape, homicide. These violent crimes are being committed more and more by teenagers and even by sub-teens. Rural crime has become sufficiently commonplace to be separately treated in crime study agendas. Many anti-crime techniques have become necessary specifically to protect farm equipment, livestock, and produce.

According to the Department of Justice, violent crime increased 60 percent during the 1970s; murder increased 34 percent, reported forceble rape increased 100 percent, robbery increased 33 percent and aggravated assault increased 83 percent. FBI statistics show that even since 1980, there has been a 20 percent increase in robbery throughout the country; and since 1979, nearly a 10 percent incease in reported rape, aggravated assault and murder.

Most law enforcement is primarily a function of state and local governments. The crime that terrorizes neighborhoods and imprisons the elderly is clearly a community problem. But it is a problem shared nationwide. No locale is safe. Reported crime has gone up in cities of all sizes, in suburbs and in rural areas. In most cases the crime wave has stymied local efforts to contain it.

The Federal role in crime fighting

Democrats believe that the nature of the Federal government in the battle against crime is—and should be—limited. Our Constitution preserves important rights and responsibilities to the states and the nation's citizens. The Federal government should not attempt to supplant the role of the other partners under the Constitution. We agree, however, that Federal initiatives have to play an important role in the nation's war on crime.

The Federal government has a natural leadership role in developing legislation and programs which provide models for the states to consider following. This leadership can also be in the form of direct or indirect resource distribution to the states. The Federal criminal statues must be revised to address problems beyond the capability or resources of state and local governments. Areas that are distinctly Federal in character include drug trafficking violations, immigration offenses, and offenses intertwined with organized crime or interstate movement. Reform in these areas is proposed in the following pages.

The Federal criminal justice system is in need of important procedural changes. We must address the areas of bail reform, prison overcrowding, pretrial services, services to victims and witnesses, sentencing reform, increased fine levels, improved forfeiture laws, and clearer expressions of Federal prosecutorial policy.

The final area of criminal justice reform is the need for improved Federal law enforcement strategy. More resources must be devoted to our Federal law enforcement agencies. The current Administration's budget cuts in law enforcement will cripple enforcement efforts in investigation of organized crime, drug trafficking and fraud. The specific steps outlined in this statement must be implemented to improve the Federal law enforcement services.

Crime fighting is, in most instances, best left to the states and localities, but the Federal government has the important tasks of: (1) providing leadership, including financial assistance, training assistance, and better cooperation between Federal and state officials; (2) providing comprehensive criminal statutes; (3) improving the procedures of the Federal criminal justice system; (4) enhancing Federal law enforcement capabilities and (5) developing and communicating judicial, social, and scientific information to assist local enforcement authorities, criminologists, judges and communities.

Resources for law enforcement

Effective crime-fighting depends on adequate funding. Although states and localities bear the burden of dealing with more than 95 percent of crimes, no federal effort to help that fight can have much meaning unless it involves commitment of resources.

The Reagan Administration's response to our national crime epidemic has been a mixture of good news and bad news. The good news is that they say they are going to be tough on crime. The bad news is that their actions clearly show that they are going to be even tougher on crime-fighting agencies.

The Administration's reaction to the recommendations of the Attorney General's hand-picked Task Force on Violent Crime is a case in point. In every instance when the Task Force made recommendations which required additional federal resources—invariably the most potent of the anti-crime measures—the Reagan Administration turned a cold shoulder. Millions of Americans may be victimized because of these decisions.

The Democratic Leadership in Congress, in contrast, has fought to save the anti-crime programs that have worked. We support sufficient funding for, as well as increased efficiency and competency in, agencies at the cutting edge of our anti-crime efforts: the FBI, the Bureau of Alcohol, Tobacco and Firearms (BATF), the Drug Enforcement Administration (DEA), Customs Service, Border Patrol and the Coast Guard.

We want to escalate the war against crime. We believe we must expand—not shrink—the federal contribution to fighting crime.

The Reagan Administration proposes to cut social programs drastically and to increase expenditures for national defense. A fundamental flaw in its approach to crime is a failure to understand that protecting our citizens from crime is a matter of national defense, not an expendable social program. No American lives are being lost to foreign enemies, but they are being lost to criminals on the streets of our cities every day and night.

Money judiciously spent fighting crime, maintaining community safety, and improving the criminal justice system can have measureable effects. We are determined to attack the problem of crime with fresh vigor and renewed respect for the most effective use of the taxpayer's money.

Attacking the roots of crime

Beyond the specific focus on crime we cannot ignore the specter of a sickened economy. National unemployment that has hit nearly 11 million Americans is at epidemic proportions in many areas of our nation, creating panic and desperation.

Though the multiple causes of crime can never be satisfactorily understood, common sense tells us that the economic conditions we face now, and the growing polarization of our citizens between haves and have nots, clearly contribute to increased lawlessnesss. Indeed, as our nation's economic woes increase, so do our crime rates, and so does public concern. For example, we are already seeing that the incidence of arson parallels increases in bankruptcies.

The Democratic Party has always stood for economic hope and security for our people—vowing that the haunting events of the 1930s unemployment lines would never be repeated.

As Democrats—sensitive to the public's anxiety over the increase in the crime rate, and aware that this anxiety has grown in the wake of the Reagan budget cuts affecting law enforcement—we are prepared to meet the crime problem head-on.

The crime-fighting measures we propose are necessary. But they will not stand alone. To achieve maximum effectiveness, they will be accompanied by a program that restores material growth to our economy and renews hope and opportunity for our people. That is why we support a broad-based economic program including a major investment in education and in training workers.

ESCALATING THE WAR ON CRIME: ASSISTING THE STATES AND LOCALITIES

In the face of Administration opposition, the House of Representatives, on February 19, passed Democratic legislation (The Justice Assistance Act, H.R. 4481) authorizing funds ($170 million) to help state and local government fight the war on crime.

This Democratic effort will continue successful state and local anti-crime programs.

It recognizes that the best use of federal financial resources in fighting crime and assuring effective justice is as a catalyst.

As a recent New York *Times* editorial observed:

"Not many police departments would have developed rape squads without leadership and encouragement from LEAA (Law Enforcement Assistance Administration). Few communities could have found the resources to set up programs for victims. The best Federal role is to help localities conduct and apply criminal justice research, with its powerful implications for management. LEAA may be dead, but the need for such help is greater than ever."

Fourteen categories of crime-fighting programs, chosen on the basis of proven success, would be supported on a fifty-fifty basis with Federal and state and local dollars.

These programs address such crime concerns as: serious juvenile crimes, white collar and organized crime counter-measures; sting operations against burglary and fencing; arson investigation; prosecutor and police information systems; career criminal identification and prosecution, extending to juveniles; victim, witness and juror assistance; and treatment for drug dependent offenders.

The Democratic program also provides emergency federal help for local crime disasters, such as the child murders in Atlanta and the quantum crime increase in South Florida's heavy drug traffic. The government has long assisted localities in coping with natural disasters and emergencies. This would be its counterpart in the area of crime.

We have successfully opposed the extreme budget cuts the Administration proposed for the FBI, DEA, the Coast Guard, and Customs Service and will continue to oppose efforts to weaken these law enforcement functions. We also work to preserve and strengthen the law enforcement efforts being carried out by the BATF. BATF not only performs valuable federal functions but it does an outstanding job in assisting and supporting state and local enforcement. Due to its ineptitude in budget planning, the Administration has left BATF with a shortage of funds which may require the agency to shut down for the last quarter of the year.

Finally, we support continuation of the Office of Juvenile and Delinquency Prevention, which help support community juvenile justice programs. The Administration would halt funding for that effort.

DRUGS

Drug use in this country has reached epidemic proportions. It is an item of peculiar federal concern, for it effects more than those directly involved. Today's level of substance abuse not only kills thousands of people, but steals from our economy, and feeds the commission of countless other crimes.

In 1980, an estimated 3.6 to 4.3 metric tons of heroin were purchased and consumed in the U.S. at a retail value of $8-$9.5 billion. Cocaine transactions rose in that same year to $27-$32 billion. Marijuana bought and sold amounted to $18-$27 billion. Other dangerous drugs consumed (LSD, amphetamines, barbiturates, etc.) took another $14-$20 billion from the economy. Florida alone has an illicit drug industry worth about $10 billion.

Total drug-related deaths in 1980 numbered 4,374. There were 852 heroin related deaths and nearly 13,000 heroin related hospital admissions.

A problem of these national proportions demands a response at the highest level of our government. To fill that need, we recommend the appointment of a Cabinet-level coordinator of federal anti-drug policy, with ready access to the President.

Although there is statutory authority to do so, no high-level coordinator or a national anti-drug strategy has been appointed by the Administration. This fact, coupled with the attempted rollbacks in DEA, the Coast Guard, and the Customs Service—agencies that are crucial to the fight against drugs—indicates that, contrary to Administration claims, this fight is not an Administration priority.

A national drug policy must be developed with one key fact in mind: all heroin, all cocaine and most marijuana, the major drugs of abuse in America, are imported. The goal of reducing the supply of these drugs must be a consideration in our foreign policy.

We must improve bilateral and multilateral negotiations with foreign nations on drug eradication.

Congress should receive annual reports from the State Department on anti-drug efforts of nations that receive foreign aid. If good faith efforts at drug eradication and interdiction are not made by these recipients of foreign aid, their aid should be reduced or terminated. The laws requiring such actions are already on the books. They should not be ignored.

International activities of the DEA must not be cut back as the Administration has requested. Through concerted action and expertise shared with other nations we can multiply the effectiveness of our efforts to achieve a global reduction in the supply of drugs.

The penalty structure of the Controlled Substances Act must be revised. At present, a major dealer selling millions of dollars of heroin is subject to the same maximum sentences as a junkie pushing a $25 bag on the street. The maximum fines of $15,000 to $25,000 are unrealistic in light of the multi-million dollar nature of many drug transactions.

The equipment and technology of our armed forces could be used to identify ships and aircraft suspected of moving drugs into the country. Thus, Democrats in both the House and the Senate initiated expansion of existing authority to use the military to assist civilian law enforcement officials in interdicting drug smugglers. We intend to insure that the military assistance called for in this new law is provided.

The Administration's effort to relegate drug treatment programs for heroin addicts to the catch-all, ill-funded, omnibus health block grant transferred to the states was penny-wise and pound-foolish. A federally financed university based study determined that, in an eleven year period, 237 heroin addicts were responsible for the commission of 500,000 crimes. Yet, when these addicts were not dependent on illicit drugs, but were treated instead, the number of crimes for which they were responsible dropped by 84 percent. We suggest the use of drug

treatment programs as an anti-crime weapon. The evidence is clear—the reduction of drug use and drug dependence reduces the commission of crime.

ARSON

Increasing numbers of news stories are emerging with similarities to the tragic one that appeared in late February of this year—a tenement fire of unknown origin took the lives of five small children in New Jersey.

Instances of arson have been growing phenomenally in recent years. Some arsonists are prompted by motives of revenge, but most fires are set to collect the proceeds from fire insurance policies. Billions of dollars (nearly $2 billion in 1980) and many innocent lives have been lost because of arson.

As a result, every homeowner and every business property owner in the U.S. must pay correspondingly higher insurance premiums.

At present, arson, which is a state crime, is typically investigated by local police and fire officials. But proof that a fire was not started accidentally requires highly specialized skills that local authorities may not have.

Federally-funded arsons task forces have demonstated that they can reduce incidences of arson and increase the arrest and conviction rate. The National Arson Response Teams is a BATF program which the Administration has opposed. We support this program which has achieved a solution rate of 69 percent, compared to the national average of 3 to 9 percent.

In Seattle, LEAA funded a task force that reduced the incidence of arson by 32 percent over a four year period. That arrest rate in Seattle increased 104 percent and the conviction rate increased by 45 percent. These are the kinds of programs that will continue under the Democratic Justice Assistance Act and with adequate funding for BATF.

Federal arson prosecutions are limited to cases involving Federal property or the property of Federally funded programs, or property involved in interstate or foreign commerce. Usually these prosecutions are targeted at cases in which there is organized crime involvement. Federal jurisdiction is, however, tied to the use of explosives to start the fire. We believe that where a significant reason for Federal jurisdiction exists, it should not make any difference now a particular arsonous fire was ignited. Federal arson offenses should be redrafted accordingly.

ORGANIZED CRIME

Tragically, every American pays a hidden "crime tax"—the increased cost of goods and services including insurance premiums, security services, added overhead due to theft and vandalism, increased taxes for everyone due to tax avoidance, taxes unpaid on the profits of criminal activities, and the costs of the criminal justice system. The yearly total, as calculated in 1976 by the Joint Economic Committee, amounts to more than $125 billion.

The transactions in illegal goods and services by organized crime account for nearly a third of this crime tax. Narcotics, loan sharking, prostitution, and gambling are all within organized crime's control.

The interstate aspects of many of these ventures place them under Federal responsibility. If anything, the sphere of federal authority in this area ought to be expanded. "Contract murder," or murder for hire, for example, is one heinous activity of racketeers which should be made a federal crime. It is growing in frequency. Drug dealers turn to hired assassins to control the illicit marketplace.

In addition to arson for hire and contract murder, we believe that the roster of federal offenses should be expanded to include:

Interstate fencing and transportation of stolen property, such as automobile parts. The commerce in stolen property has increasingly become interstate in nature and a legitimate concern for the Federal law enforcement community. The traffic in stolen precious metals, the dismantling and sale of stolen auto parts through so-called "chop shops", the sale of counterfeit copyrighted movies and records, as well as other types of stolen property are feeding huge illegal markets. These large, interstate operations produce substantial income for organized crime. Current Federal law does not allow for effective response. We must modify the appropriate statutes to criminalize this conduct.

Crimes against the person of all federal officials with substantial law enforcement responsibilities, and certain high-level government officials.

We also need strong and effective federal laws to provide protection—at an earlier stage in the criminal justice process—for victims of and witnesses to Federal crimes. We must not allow them to be targets of harrassment or intimidation by criminal defendants. The testimony of victims and witnesses is essential to the functioning of our criminal justice system. To continue to protect the rights of defendants while ignoring those of the victims and witnesses would make a mockery of that system. The Federal witness protection program must be so structured to assure that persons in the program do not pose a danger to their new community. We must also assure that persons with out any previous criminal involvement can participate in the program.

FIREARMS

The crime problem cannot be addressed fully and adequately without attention to the handgun. The Federal government shares responsibility with state and local governments for taking steps to reduce the criminal misuse of handguns. Positive steps can be taken which balance the rights of legitimate handgun owners with the legitimate fears of many citizens about the easy availability of handguns.

The widely varied local responses to handgun control, and the interstate commerce that fuels the criminal misuse of handguns, indicates that federal attention to the problem is necessary. Only through a well-defined federal response can the legitimate needs and interests of all parties be protected.

We should consider revising our federal gun crime laws in accordance with the following principles:

Providing mandatory penalties for the use of a firearm during the course of a federal felony.

Prohibiting the manufacture or sale of machine guns, silencers, and devastator bullets, except for the use of the military and law enforcement officials. Further study is required into the problems presented by special purpose munitions, such as armor-piercing bullets, which appear to have no legitimate usage, to determine if these munitions can be prohibited or restricted without affecting legitimate munitions which may possess similiar characteristics.

Requiring manufacturers and dealers in handguns to report to the police the theft or loss of weapons.

Simplifying procedures by eliminating most of the paperwork required under current law when ammunition is sold.

Limiting the use of civil sanctions, such as dealer license revocation and forfeiture of firearms, when criminal charges based on the same facts have resulted in acquittal.

THE SHARING OF LAW ENFORCEMENT INFORMATION

There is a need to develop better, more creative working relationships between Federal, state, and local law enforcement agencies to combat crime. In such an arrangement, the state and local agencies must be treated as full partners—not poor relatives or country cousins.

Central to these efforts should be clear and consistent policies regarding the exercise of jurisdiction of the 110 Federal agencies concerned with detection, investigation, or prosecution of Federal law violators. Wasteful overlaps should be eliminated, to avoid costly disputes over jurisdiction. A recent review of Federal declination policies in drug cases—which determine which cases will be prosecuted and which will be "declined" and turned over to the states—revealed tremendous variations in federal policy. Some Federal prosecutors were found to be prosecuting persons possessing one pound of marijuana, while others were turning down cases involving one thousand pounds. Less dramatic but similar variations exist in regard to bank robberies. Such inconsistencies and variations cannot be justified on the grounds of varying local needs.

Similarly, creation of coordinating councils and joint task force projects between national, state, and local officials would curtail battles over jurisdiction and speed the sharing of vital intelligence between agencies and regions. Such improvements must include mechanisms to insure accuracy and to prevent access by individuals without legitimate law enforcement functions.

The procedures by which this information is shared need to be improved. Such improvements must include mechanisms to insure accuracy and to pevent success by individuals without legitimate law enforcement functions.

An adequate criminal history system must be maintained by the FBI or state criminal justice agencies.

The FBI budget must be augmented to permit prompt replies to inquiries from state and local law enforcement officers. For example, a Federal fugitive, convicted of drug trafficking, was later released by the Miami police because they could not get a prompt fingerprint check from the FBI. The fugitive is believed to have murdered a half dozen people before he was killed in a shoot out with police. In addition, state and local agencies should have access to FBI criminal identification records, paying a user fee if necessary. Currently, dangerous ex-felons can freely obtain sensitive jobs because the FBI will not perform routine record checks for licensing agencies or potential employers.

Federal law enforcement agencies must take the lead in developing task force operations with state and local governments. The DEA and BATF have run successful drug and arson investigations like this, and the technique should be expanded to other areas.

Federal research into the causes and prevention of crime, and effective law enforcement responses to crime, must be adequately funded—and the results shared with state and local officials.

REFORMS IN THE FEDERAL CRIMINAL JUSTICE SYSTEM

In the newspapers and other media almost daily are news accounts that demonstrate the pressing need for reforms in the Federal criminal justice system.

These reports are often shocking examples of justice gone awry: sentencing that is too harsh or too lenient; crimes committed by a defendant out on bail, and similar tales that offend citizen's sensibilities.

Democrats maintain that the following procedural changes, in particular, are needed in the Federal criminal justice system:

Pre-trial release

Permitting judges to consider a defendant's danger to the community in setting the conditions of pre-trial release. In theory only risk of flight may now be considered as a factor in setting conditions for release under Federal law.

Requiring that crimes committed while on bail receive consecutive sentences, and that the statutory penalty for bail-jumping be in proportion to the seriousness of the initial offense.

Establishing a national program of pretrial services to provide accurate information and advice quickly to the federal courts in setting bail and pre-trial release conditions, to provide greater protection to the community and eliminate expensive pretrial detention of persons who pose no risk to society. Ten such cost-effective programs are now in place, and have demonstrated their utility.

Sentencing

Developing sentencing guidelines to eliminate the widely disparate sentencing that now prevails in the Federal system.

Drug treatment

Maintaining the programs that treat drug-dependent federal probationers and parolees and thus reduce drug related recidivism.

Restitution

Expanding restitution programs which require the offender to pay the victim for the harm done.

Forfeiture of criminal assets

Expanding the Federal forfeiture law to permit prosecutors to attack the profit structure of organized crime particularly. Restitution to society of the money taken from those victimized by drug dealers or the rackets of organized crime is only just. Changes in the law to consider the total financial picture of the defendant would be a step in this direction. In the case of a convicted narcotics dealers who can show no other source of income, property held should be presumed to have been obtained from the proceeds of crime and thus subject to forfeiture. Expanded forfeiture laws, however, must be carefully drafted to protect the property rights of those not convicted of a crime.

Enforcement aids

Modifying tax laws which unduly restrict Internal Revenue Service assistance to law enforcement agencies in their investigation of white collar crime, fraud, and organized crime. Certain provisions of the tax code have created excessive barriers between IRS and law enforcement agencies for legitimate investigation and prosecution, and these must be revised. These laws effectively prohibit sharing evidence of crimes that are confessed to or known to IRS. Even evidence obtained by IRS sources that are not tax returns which, due to their compulsory nature require a higher degree of privacy, is ensnared in the red tape required by these sections. Information which can be shared is subject to extraordinary delays and technical scrutiny. Modification of these tax provisions is a necessary component to other efforts to combat drug trafficking, organized crime and white collar crime.

Strengthening our ability to combat the laundering (in offshore banks) of proceeds from narcotics trafficking and organized crime by amending bank reporting laws relating to movements of large sums of cash and other monetary instruments.

Revising upwards the fine structure in federal criminal law, and improve collection procedures. Existing fine levels were for the most part established decades ago; their deterrent and punishment powers have been eroded by inflation.

Prison reform

We support a number of steps to bring immediate relief to prison overcrowding and substandard conditions in our nation's prisons. We need to make available surplus U.S. government facilities, including military installations, to state and local governments for use as incarceration facilities. This is to be preferred over costly Federal subsidies for prison construction for a number of reasons. First, there is the sheer cost of new prison construction. At $60,000 per cell and upward, even the $2 billion dollar program recommended by the Task Force on Violent Crime would not go far in relieving overcrowding. Second, surplus facilities can be ready for use in a few weeks or months, not several years. Third, the cost to state local governments for conversion of such facilities would be only a small fraction of new construction, even if half the construction cost were assumed by the Federal government.

There are other steps that the Federal government can and should take to help relieve the prison crisis that exists. These include research, technical assistance, and training programs in the most effective uses of costly prison space.

The simple fact is that prison space is a very expensive and therefore scarce commodity, and it must be treated as such. There are too many people locked up in these expensive facilities who do not need to be locked up, and there are too many roaming free and committing more crimes who should be incarcerated. For these reasons, one specific category of Federal assistance under the program we advocate is help to states in determining the best uses of prison space in order to relieve overcrowding.

Such efforts should focus, on the one hand, on identifying and incarcerating violent and dangerous offenders—those who, when on the street, commit crime, often several crimes, every single day. On the other hand, Federal assistance should extend to developing sanctions less expensive than full time incarceration for non-dangerous offenders, to insure availability of prison space for the truly dangerous offender.

ECONOMIC CRIMES

A few years ago, the U.S. Chamber of Commerce estimated that white collar crime—not including anti-trust violations—cost the American public $44 billion per year, compared to an estimated $4 billion per year for "street" crimes against property.

We must disagree with the simplistic statement of the Attorney General to the effect that people are only concerned about violent crime and not about fraud which adds "a few extra cents to the cost of a loaf of bread." Computer and insurance fraud, scams, pension fund rip-offs—all the forms of economic crime—rob citizens of their wages and savings more viciously than burglary, which can be insured against. White collar crime must not be excused or ignored in the name of increased concern for street crime.

Democrats support continued effective load and state-operated economic crime units.

EXTRADITION

Our extradition statutes have not been revised since they were created in the 19th century. These out-dated provisions have allowed some offenders to escape prosecution. They should be thoroughly reviewed and revised, to aid foreign policy and to improve the quality of international justice.

CONCLUSION

In the face of mounting public alarm over what is undeniably a crime wave, the Administration's retreat on crime control is completely contrary to the national interest.

Democrats have staunchly opposed efforts by the Administration to eliminate the weapons necessary to wage a war on crime. We have gathered the necessary bi-partisan forces to pass legislation which will overcome the Administration's weak positions.

We are prepared to fight for these new initiatives in the war on crime. Increased efforts call for all-out assaults on drug trafficking, organized crime, arson-for-hire, and handgun abuse.

This strengthened Federal role in crime-fighting, combined with long-needed reform in the Federal criminal justice system, sensible bail and incarceration policies, and increased cooperation with state and local law enforcement agencies, should go a long way toward making America safer and offering Americans some peace of mind.

BUILDING A STRONG DEFENSE: ASSURING AMERICA'S SECURITY IN THE 1980'S

(Introduction by Rep. W. G. (Bill) Hefner, Chairman)

No responsibility of our national government is more important than providing for the common defense. Without the shield of a strong defense our freedom and the domestic institutions of this country lie exposed to those who are hostile to us.

In the 1980s, we face new threats to our national security: the increased strategic nuclear capability of the Soviet Union; the enormous buildup of Soviet conventional forces; our dependence on imported oil; a shaky domestic economy; and, the existence throughout the world of international tension spots and conditions that breed Soviet expansion.

The Democratic Party is committed to meeting those threats head on. We believe that our country must strengthen its defenses and pursue a national security policy which meets, with resolve, the threats we will face in the 1980s.

We are concerned that the Republican response to the new threats to our national security is but one dimensional—an unprecedented, untargeted increase in military spending. We agree that defense spending needs to increase. But those increases must be carefully targeted to our needs so that we add muscle and not fat to our defenses.

For that reason, as a first order, we call for a top-to-bottom assessment of our national security needs. What parts of the

world are vital to our national interests? What structure of armed forces do we need to defend them? How many of those forces do we need? We need to know the answers to those questions and others to get the maximum yield from America's defense dollar. No such really comprehensive top-to-bottom assessment of our defense needs has been undertaken since the Kennedy Administration. But the world has changed since then and the threats we face today are different than those we faced in the early 1960s.

While that assessment is being undertaken, however, we must act to meet the threats that we know exist.

To reduce the threat of nuclear war, we believe the United States should pursue on an urgent basis, serious strategic arms control negotiations consistent with maintenance of overall parity with the Soviet Union.

To counter the buildup of conventional military forces, there is no question that we must strengthen our own defense capability and that targeted increases in defense spending are necessary, to achieve that goal. We need to strengthen our conventional forces with an emphasis on readiness; to improve their quality of life so we can retain trained personnel; to make sure equipment is maintained; and, to make sure we have the capability to move troops wherever they are needed.

To reduce the energy threat to our national security will require taking the military steps necessary including building our rapid deployment capacity, to deter Soviet movement into the Persian Gulf, and pursuing an energy policy, at home, to move us toward energy security.

To free up resources we need to invest at home to shore up our sagging economy. We must insist that our allies pay a proportionate share of the overall defense cost of the Western Alliance. Three decades after the establishment of that alliance—we still pay a greatly disproportionate share of the bill. Dollars our allies do not spend on defense are being used to out-do us in the free market which we are spending huge sums to defend. Every American dollar that is spent to defend our allies cannot be spent to promote economic growth here at home.

Finally, to reduce tension around the world and eradicate the conditions that breed Soviet adventure—we need a consistent, tough foreign policy that promotes American values around the world.

By taking all of those steps and others outlined in our paper, we believe we can meet the very real threats that now exist to our national security.

BUILDING A STRONG DEFENSE: ASSURING AMERICA'S SECURITY IN THE 1980'S

No activity of the national government is more important than providing for the common defense. Without the shield of a strong national defense the domestic institutions of this country lie exposed to those who are hostile to us.

We live in a world full of challenge and danger which is neither as simple nor as safe as it once was. Yet, it has now been more than two decades since our country undertook a really comprehensive top-to-bottom evaluation of our national security needs and defense capabilities. Ever since, our national defense structure—including that of the current Administration—has been based on that analysis of our defense needs in the early 1960s.

Since that analysis was made, the world has changed greatly and so have our national security needs. During those two decades, we have witnessed:

The Viet Nam War;

A dramatic shift in the relationship between the United States and the Peoples Republic of China and between the Peoples Republic of China and the Soviet Union;

Three wars in the Middle East and the conversion of Egypt from an ally of the Soviet Union to an ally of the United States;

The establishment and strengthening of the OPEC Cartel and the use of oil as a weapon by that Cartel and the emergence of the Persian Gulf as a critical and vulnerable region;

Growing instability in Central America;

The emergence of new economic powers in Asia, Western Europe and South America; and

The Soviet occupation of Czechoslovakia, the Soviet invasion of Afghanistan, and the imposition of martial law in Poland with Soviet backing.

All of these events—and many others of the past 20 years—bear directly on the national security needs of our country. Yet, the structure of our armed forces—16 armed divisions, three marine divisions, 24 tactical air wings, etc., has not been revamped during that period.

THE THREATS OF THE 1980'S

As we move into the 1980s, we face new threats to our national security. Because the world around us has changed—and because our adversaries and our allies have changed—the threats we face in this decade are different than those we faced in earlier decades. National security policy for the 1980s must respond to the most serious threats we face in the 1980s.

First, in the 1980s we are threatened by the strategic nuclear capability of the Soviet Union. We recall that 1982 marks the 20th Anniversary of the Cuban Missile Crisis when humanity came close to the edge of the nuclear precipice. We no longer enjoy the unassailable nuclear strength that prevailed in 1962. The Soviet Union now needs no advance base in the Western Hemisphere to threaten the American heartland; the day when we could strike the Soviet Union and suffer no long-range retaliation is gone. This fact alone counsels both strength and prudence in our dealings with the USSR.

Second, our national security—and that of our allies—is threatened by the buildups of Soviet conventional military forces. The Soviet Union is producing tanks, planes, artillery pieces and armored personnel carriers in impressive numbers, and the quality and sophistication of that equipment is also improving. The old limitations of geography and the elements which once constrained the Soviet Union have been negated by Soviet naval bases and ports of call from Aden to Camh Ranh Bay. The invasion of Afghanistan demonstrates the ability of Soviets to move masses of troops overland and have them fight and survive in a hostile and remote place. The Persian Gulf is now within their reach.

Third, our dependence on imported oil represents a direct threat to our national security. Twenty years ago, we were not dependent upon foreign sources of energy; today we are. Energy concerns were a minor part of national security two decades ago; today, they must occupy a prominent place in our strategic thinking—particularly because we are dependent upon a volatile part of the world for an important energy source.

Fourth, our nation's security is made more vulnerable by a shaky domestic economy. Two decades ago the United States dominated the world economically. Today that is no longer so. Domestic industries in autos, steel, and electronics, once impregnable have been inundated by foreign competition despite the fact that these are industries of great strategic significance. No national security policy can fail to acknowledge the reality of American industrial and technological vulnerability or neglect to take steps to deal with it. We have faced up to both of these responsibilities both in this paper and in our long-term economic policy statement.

Finally, in the 1980s, our national security is threatened as long as international tensions throughout the world and the conditions that breed Soviet expansion exist throughout the world. A foreign policy that fails to deal with such conditions does little to make our own nation more secure, and neither does a policy that fails to affirm American values abroad. Our concern for freedom and human dignity is essential to promote our national interests throughout the world. When we support repressive dictatorships, we play directly into the hands of the Soviets and their surrogates.

Awareness of these dangers and vulnerabilities does not paralyze us or make us passive. Knowing the problems posed by these changes of the past two decades strengthens our resolve to be the party that embraces the future along with its many challenges and perils. History has taught us some painful lessons but it is also a chronicle of American triumph. Our day is not past. Our moral and spiritual force is not spent. Our ability to influence the future is undiminished, and our party stands ready to be the pathfinder for a nation prepared to encounter and master the future.

THE REPUBLICAN RECORD

The test of the Republic national defense policy must be how it has responded to the varied threats to our national security in the 1980s.

Basically the Republican Administration has relied on an unprecedented increase in military spending. We agree that defense spending must be increased, but we believe those increases should be tied to a thorough analysis of our defense needs of the 1980s. Unfortunately, the Administration has decided to drown with hundreds of billions of federal dollars a defense structure designed to meet our national security requirements in the world of the 1960s. That is wasteful and unwise.

And a defense buildup alone will not meet the threats to our national security in this decade.

A DEMOCRATIC NATIONAL SECURITY FOR THE 1980'S

We Democrats believe that our country must strengthen its defenses and pursue a national security policy which meets head on the threats we will face in the 1980s.

The first step: Assessing our defense needs

During the Kennedy Administration, the Pentagon, under Secretary of Defense Robert McNamara, undertook a top-to-bottom review of our national security needs. That review served as the basis for a restructuring of our defense establishment.

In the two decades since our defenses were last analyzed thoroughly, the world has changed greatly—and so have our national security needs—but our defense structure has remained the same.

The result is that we are pouring money into a defense establishment structured to meet our defense needs of two decades ago. As a result, we are getting less defense—and less useful defense—than we are paying for.

For that reason, we believe that, as a first order, the United States should undertake a top to bottom assessment of our national security needs. What parts of the world are vital to our national security? What structure of forces do we need to defend them? How many of those forces do we need? This assessment must be as thorough as that undertaken during the Kennedy Administration in the early 1960s. We must determine where the real threats to our national security will come from in the 1980s and what we, as a nation, have to deal with them.

With such an examination completed, we can restructure our forces to deal with the military needs of this decade. That way defense expenditures increases can be put where they will do the most good.

While this assessment is being undertaken, however, we must begin immediately to deal with the real threats that we already know exist.

Reducing the threat of nuclear war

The Democratic Party believes that American security in an age of 50,000 nuclear weapons requires organizing every facet of our nation's policies to prevent nuclear war. This includes:

Strength so we can continue to deter any aggressor;

Improving conventional forces so that nuclear weapons remain our ultimate deterrent, not our first line of defense;

Reducing the vulnerability of nuclear retaliatory forces to a first strike;

Improving nuclear command and control so that nuclear weapons are never released in ignorance nor error;

Improving intelligence collection capabilities so that vital national defense decisions are based on knowledge not uncertainty; and,

Serious, sustained negotiations to limit nuclear arms.

We Democrats believe it is particularly important to control the spread of nuclear arms to reduce our vulnerability to nuclear attack and would put more emphasis on arms control than the Reagan Administration. We must never loss sight of the fact that our arms control policy must have just one purpose: to prevent the outbreak of nuclear war, from which there would emerge no winner.

The Republican Response

The Republican Administration came into office criticizing the Democrats for the so-called "window of vulnerability" which threatened our land based strategic missiles. The Carter Administration's plan for dealing with that "window of vulnerability" was the SALT II agreement coupled with the racetrack basing mode for the MX missile. As a candidate, President Reagan vigorously criticized both SALT II and the MX basing mode.

Now, 20 months later, we are no better off on either front. There has been little progress in arms control negotiations and, as a result, there are 300 more Soviet bombers and missiles targeted on the United States than there would have been had SALT II been ratified.

In deciding the basing mode for the MX, the Administration has shown itself confused and irresolute and, as yet, has come up with no proposal of it own. In short, the Reagan Administration first criticized and then stopped the Carter initiatives to deal with the "window of vulnerability" but has come up with no other alternatives.

In other ways, too, this Administration has acted in ways that have not decreased the prospect of nuclear war.

The Administration places a low priority on halting nuclear proliferation which poses the threat of fissionable materials finding their way into the most unstable and irrational hands in the world. Indeed, the Administration has given Pakistan a $3.2 billion aid package despite the fact that it is pressing ahead with the development of nuclear weapons.

A total ban on nuclear tests which every Administration—Democratic and Republican alike—has supported for the past thirty years has been rejected by this Administration.

The Democratic Way

We welcome and support a national movement to control nuclear weapons and prevent their use, including the national nuclear weapons freeze campaign, as a clear expression of the strong desire of the American people to prevent nuclear war and to halt and reverse the nuclear arms race. We believe that the United States should pursue, on an urgent basis, serious strategic arms control negotiations consistent with the maintenance of overall parity with the Soviet Union.

Direct discussion with the President of the United States and the Premier of the Soviet Union must begin as soon as possible to further comprehensive nuclear arms control negotiations which should include, to the fullest extent possible:

A major, mutual, balanced, and verifiable freeze on the testing, production, and deployment of nuclear warheads, missiles, and other delivery systems;

Special attention to the issue of destabilizing weapons: those weapons that are vulnerable to, or capable of a nuclear first-strike and whose possession by either side stimulates mutual fear, spurs the arms competition, endangers existing agreements, and heightens the risk of all-out nuclear war;

Strict adherence by both sides to all arms control agreements negotiated to date;

Measures to prevent the use of nuclear weapons by each superpower, such as expanding political and technical mechanisms to reduce the risk of war by accident or miscalculation, including hot lines among nuclear weapons states;

Systematic multilateral efforts—both political and technical—to restrain the reckless commerce in sensitive nuclear materials and technology, and to prevent the spread of nuclear weapons and explosive capabilities to third parties, including terrorists;

Conclusion of a verifiable Comprehensive Test Ban Treaty;

Serious negotiated efforts to increase stability and lessen the risk of war in Europe by reducing the conventional and nuclear imbalance in Europe and by initiatives such as mutual confidence-building measures to provide greater warning time; and,

Expansion of the participation of all nuclear weapons states in arms control negotiations.

Countering the Soviet conventional military threat

The Soviet conventional military buildup is real, and we must take steps to deal with it. But in countering it most effectively, we must exploit Soviet military weaknesses and take advantage of our military strengths.

The Republican Response

The Republican response to the Soviet buildup has been one dimensional: to pour hundreds of billions of new dollars into our existing defense establishment in an effort to match the Soviets weapon for weapon. While such a response lends itself to tough talk, it neither exploits Soviet vulnerabilities nor reinforces American strengths. As a result, we run the risks of adding fat rather than muscle to our national defenses and of wasting billions of tax dollars that could be invested to spur economic growth.

The Democratic Way

We believe there are a number of steps we can take to counter effectively the threat resulting from the Soviet buildup. They include:

Increasing defense spending

We believe that the United States must increase spending for defense. The question is how much and for what purpose.

President Carter increased defense spending during his term and his last budget provided for a five percent increase in real defense spending in each of fiscal 1981 and 1982.

The Reagan Administration has recommended an even higher buildup—a 12 percent growth in real defense spending in fiscal 1981, a 10 percent increase in fiscal 1982, and 13 percent increase in 1983. Overall, the Reagan Administration defense plan calls for a $1.6 trillion program over the next five years. It averages an increase each year of more than eight percent a year.

There is no question that America must strengthen its national defense capability and that increases in defense spending are necessary to achieve that goal. But we believe that we can continue our defense buildup in a more prudent manner that would allow us to add muscle and not fat to our national defense.

As a first order, we need to make sure our equipment is maintained, personnel shortages filled, and that we possess the ability to move troops wherever they are needed in combat. We are particularly concerned that the President's defense plan relies too much on new weapons systems and affords too little to readiness requirements.

Strengthening Conventional Forces

The necessary build-up in American's military forces cannot be defined exclusively in terms of military hardware. Readiness, air and sea lift capacities, training, and manpower quality must be emphasized. The reality is that the performance of an army depends, more than anything else, on the quality of its soldiers.

American armed forces must be prepared to respond to challenges across the military spectrum. Accordingly, our triad of land-based missiles, submarine-launched missiles, and manned bombers must be maintained and improved. But it is the quality of our non-nuclear forces that deserves special attention, for it is at this level that the most likely challenges will come. The stronger we are in conventional forces, the less likely it will be that we shall have to choose between capitulation.

We need to strengthen the readiness of our conventional forces.

Ammunition stocks must be increased to accommodate not only their potential use in combat but to provide adequate rounds for training.

Spare parts must be available in quantities sufficient to minimize the time equipment is out of service for repair.

Adequate fuel must be available for fleet maneuvers and training exercises and to maintain the proficiency of pilots and air crews.

Air-lift and sea-lift capacities should be expanded to augment our ability to deploy naval forces.

All of these steps will strengthen conventional forces.

Improving Unit Morale

Many military experts believe that a critical ingredient in an effective fighting machine is unit morale or *esprit de corps.*

Yet the rate of troop rotation in our armed services is now the highest of any modern army and creates demoralization, interferes with unit cohesion, and undermines the confidence among military personnel. Families of soldiers, sailors, and airmen suffer from rootlessness and all of the social pathologies associated with families who are forced to pull up stakes on a regular basis. The cost of moving a single military family runs from $60,000-$80,000. Frequent rotation is harmful to military morale and costly to the taxpayer.

We believe the armed services should abandon this counterproductive troop rotation policy and assign fighting men to a single unit for their terms of service. That way they can develop the unit pride and commitment necessary to be most effective on the battlefield.

Matching personnel and weapon

Sophisticated weapons cannot be operated by personnel who are unfamiliar with them or lack the technical background to operate them. Yet, more often than not, that is what we are asking. The problem must be attached from both directions: weapons must be made less complicated to operate and personnel must be better trained—in public schools and in the military—to deal with technologically advanced equipment.

Tactical warfare

We should explore innovative thinking in the development of warfare tactics that exploit the weaknesses of our adversaries. Reforms such as greater maneuverability, flexible field tactics, and decentralized command may take better advantage of our strengths.

Reviewing the manpower pool

In the future, demographic trends suggest that the national manpower pool will be challenged to meet our defense needs. The Democratic Party believes that we must review our manpower needs and resources, with attention paid to supply, equity, training, and recruitment.

Improving living conditions

The key to a strong military is a dedicated, professional force of men and women prepared to make the sacrifices necessary to defend our country. This is true at all levels of defense—from the rifle squad to the crews that man the missile installations. We invest a great deal in training our military personnel but often lose trained military specialists to civilian employment because of lack of incentives to re-enlist. That was particularly true until re-enlistments increased because of the recession, and it is a price we cannot afford to pay.

Military housing is inadequate. On many military bases in the continental U.S., service personnel are either assigned to mobile homes or are thrown onto an already-saturated local housing market.

Support service—career and personal counseling, medical care, and other forms of social support—are insufficient.

Military families must depend, increasingly, on two wage-earners in order to survive economically, yet such services as child care are often lacking on military bases.

Our forces abroad—particularly in Germany—are forced to compete for housing in markets in which housing stock is in poor supply yet where the cost of living puts American service personnel at a competitive disadvantage with an affluent local population.

Military medical care for dependents which was once the model for armies throughout the world no longer always compares favorably with that which is available to workers in the private sector.

We reject the popular but erroneous belief that American service personnel live in the lap of luxury and receive services which are available only at greater cost to civilians. We intend to redirect military spending priorities to insure that a military career will come once again be rewarding for those who are called upon to make sacrifices for their country.

Countering the energy threat to our national security

No threat in the decade ahead leaves our national security more vulnerable than our dependence on foreign energy. In the simplest and starkest terms: the most sophisticated and expensive bombers ever made are useless without fuel. The security of the Western Alliance is dependent on a vulnerable oil lifeline which begins virtually on the borders of the Soviet Union and threads its way through the most volatile region of the world.

The Republican Response

Despite the critical nature of the energy threat, this Administration has acted in ways that threaten the energy security of the United States and its major allies.

The burden of protecting the vital area of the Persian Gulf and its supplies of oil which are so important to all Western economies has fallen exclusively on the United States. A recent Defense Department report to Congress warned that, "The United States cannot do it alone. The United States Congress and the general public would not tolerate this. . . . The allies, as major beneficiaries of this effort, must do their fair share to carry the risks and burden of defending common security interests in Southwest Asia."

Programs of energy conservation which would have had the effect of making this country less dependent upon foreign oil from unstable regions of the world have been allowed to languish.

The Democratic Way

Reducing the energy threat to our national security will require our taking two distinct types of actions.

First, we must take the military steps necessary to deter Soviet movement into the Persian Gulf and to bring peace and stability to that region.

Second, we must take energy policy actions—as are contained more fully in our report on long-term economic policy—to move our country toward energy security.

Deterring Soviet movement into the Persian Gulf will require our being able to respond quickly to crises and to deploy troops rapidly.

Presently, our rapid deployment system is a bureaucratic solution to a military problem. For that reason, we are concerned that it could fail if put to the test. The rapid development headquarters in the United States—with a command structure that includes all the armed services—has no troop units assigned to it in peacetime. In wartime, units from the various services would be assigned to that command.

We are extremely concerned that this system is flawed for two reasons. First, it assumes that units operating under their regular command, can mesh immediately with a new command structure when put under the rapid deployment headquarters. We fear there will be a period of adjustment that could be critical in a crisis situation. Second, it assumes that units are designed to be interchangeable—that they can fight anywhere, under conditions different than those for which they were trained. We challenge that assumption.

The top-to-bottom assessment of our defense needs should take a particularly hard look at our rapid development force. In the meantime, we believe responsibility for rapid development should be turned over to a single service, the Marine Corps, the service most adaptable to that mission.

While protecting the Persian Gulf is not the only reason we need a rapid development capability, it is an important one.

We call in our long-term economic policy report, for a vigorous energy policy that builds on our advantages—abundant coal supplies, proven ability to conserve, the enormous potential of alternative and renewable energy sources, and a resilient market place—and confronts our liabilities—dependence on imported oil and required imbalances which underscore the need for an equitable national policy.

We believe the United States should become a net energy exporter by the year 1990 by:

Creating a greatly expanded coal exporting industry;

Modernizing the nation's entire transportation system and infrastructure, from mines to railroads to sea lanes;

Inventing coal-technology processes and pollution-control equipment to increase our productivity, protect our environment, and open new markets to us for international trade;

Encouraging domestic production of oil and natural gas;

Building on our present international lead in solar technologies and conventional and unconventional drilling techniques; and

Drawing other nations to us in friendship, as we help to lift the bruising debt they owe to OPEC.

The economic threat

A weak economy undermines our national security in many ways. In particular, our national security is weakened by the decline in our heavy manufacturing industries—like steel and autos—industries we need to supply our own weapons and equipment needs.

In our long-term economic report we have detailed the major challenges facing our economy, and outlined both the Republican failure to meet those challenges and the Democratic approach to meeting them.

Only one point needs expansion here. That is how critically important it is to our economic health to have our Allies pay a proportionate share of our common defense bill.

The Republican Response

The Carter Administration received the agreement from our NATO allies to increase defense spending by three percent a year. But the Republican Administration has not pressed our allies to keep that commitment. The result is an increase in the burden on

the American taxpayer and diverting billions of dollars that could be invested in our domestic economy.

The Democratic Way

Ever since the end of World War II, the United States has paid a disproportionate share of the defense bill for the Western Alliance. When the North Atlantic Treaty Organization was formed 30 years ago, such an arrangement was not inappropriate because our allies were still trying to get out from under the devastation of the war.

Today the situation is much different. Allies like Japan, Germany and France are our economic rivals with economies growing faster than ours. Yet, we still pay the bill for their defenses—with borrowed dollars. And the resulting increase in defense spending will make our share even greater.

We spend about 5.9 percent of our gross national product on defense and that figure will grow to more than seven percent by 1987; the Japanese, with the second largest economy in the world, spend less than one percent of theirs. Every dollar Japan does not spend on defense is being use to out-do us in the free market which we are spending immense sums to defend.

We simply cannot allow that to go on. American defense policies should be intertwined with those of our allies. We cannot and ought not to bear the burden alone. We must insist that our allies pay a proportionate share of the overall defense cost of the Western Alliance.

As our economic report points out, the key to our long-term economic health is a broad-based private and public investment program—in new plants and equipment, discovering and developing new technologies, educating and training workers, and rebuilding the transportation systems necessary for orderly commerce. But these critical investments for our economic health and our national security will cost billions of dollars. In a period of economic and budget restraint those investment dollars are hard to find. Every American dollar that is spent to defend our allies, cannot be invested in our economy here at home. To make matters worse, every dollar our allies don't spend on defense, they use to make their own domestic investment that undercut American industries.

Over the years we have shied away from criticizing our allies until such comments have come to appear unmannerly. But our allies are no longer poor cousins; they are not bearing their full share of the defense burden and that helps explain why their economies are thriving and ours is stumbling.

Statistics show that countries with a higher investment in defense have been growing at a slower pace. Japan, with by far the lowest outlays for defense, has enjoyed by far the most rapid growth of the major developed countries in the last decade. Britain and the United States, with the highest commitments to defense, have trailed in the growth sweepstakes while Germany and France are in the middle, in terms of both defense and growth.

Growth and economic well-being cannot be explained solely in terms of defense outlays. Obviously, other factors are involved, such as the proportion of skilled workers in the labor force, the amount of work time lost to strikes, the attitude of workers toward their jobs, among others. But clearly one of the most important elements is the amount of capital available for investment. And defense expenditures divert large quantities of investment capital.

If each of the major developed countries reallocated its defense spending to investment, the funds available for investment in Japan would grow 3 percent, in Germany 15 percent, France 18 percent, Britain 26 percent. In the United States funds for investment would grow a full 30 percent.

This shows dramatically how much more capital is consumed by defense in the United States than in our major allies and competitors. And it has a severe impact on our economy.

Besides reducing funds available for investment, carrying such a heavy defense burden affects our economic prosperity in a second and equally critical way. It diverts American technological genius from the civilian economy to the defense sector.

Our scientists and engineers are inventing better missiles and space vehicles while Japanese scientists and engineers are inventing better cameras and TV sets. We protect them with our defense and they beat us with their commercial products.

The issue is the size and share of the burden that the United States and the other Western democracies should bear. If we continue to escalate our share of the burden, our allies will have no reason to increase their share. We will see our competitive position continue to shrivel until we will be unable to bear the cost of defense, at which point Japan and Europe will have to carry the full load, not to mention launching a Marshall plan in reverse.

The message is obvious. Rather than proudly shouldering the Western defense burden, we must emphasize burden-sharing with our allies. It is in the allies' interest as well as our own that all our economies thrive. To share the blessings of a healthy Western economy, we must also share the burden of defending it.

Combating the threat of instability

We believe that a sound, consistent foreign policy which aims to reduce tensions around the world, to eradicate the conditions that breed Soviet adventure, and to promote American values around the world contributes greatly to our national security.

Dealing With the Soviets

We have discussed in great detail the steps we would take to lessen the chance of nuclear war and to counter the Soviet military buildup. In addition, we are committed to a vigorous diplomacy, drawing on the full measure of U.S. and allied resources, to alleviate the conditions of economic deprivation and repression in the developing world before they erupt into conflicts from which the Soviets can benefit.

Nor should we treat Eastern Europe as a monolith. We should seek an independent relationship with those countries which have shown independence from the Soviet Union. We must be responsive to the aspirations and hopes of the peoples of Eastern Europe and encourage, wherever possible, the forces of change and pluralism that are likely to shape events in those nations in the coming decades.

Finally, in our relations with the Soviet Union, the United States must never forget its strengths as the leader of the free world. Our devotion to American values, both at home and around the world, in past years, has drawn like a magnet the hopes of millions of people in other lands to the United States while placing the totalitarian regimes of the world on the defensive in the court of world opinion. To forgo that commitment is to disarm unilaterally our nation of a powerful weapon we can wield in our competition with Communist nations—America's unyielding commitment to human freedom and democracy.

A Secure Israel and Peace in the Middle East

We believe that the security of Israel and the construction of peace in the Middle East are fundamental priorities for our own national security. Israel remains more than a trust friend, a steady ally, and sister democracy. Israel represents a strategic asset to the United States, protecting and defending U.S. interests in an unstable region of the world against encroachment by the Soviet Union and against potential threats to Western nations' vital oil supplies.

We oppose this Administration's sales of highly advanced weaponry to avowed enemies of Israel. We must ensure Israel's qualitative military edge over any combination of Middle East confrontation states. We oppose negotiations with the PLO, unless the PLO abandons its terrorism, recognizes the state of Israel, and adheres to U.N. Resolutions 242 and 338.

We believe that the recent events in Lebanon have provided an opportunity to move toward peace in the Middle East. We believe that the Camp David framework offers the best hope. It is very important that Jordan, Saudi Arabia and other Arab states join the peace process. We re-emphasize the fundamental principle that the pre-requisite for a lasting peace in the Middle East remains an Israel with secure and defensible borders, beyond a strong shadow of a doubt.

A Sensible China Policy

We believe that our developing relations with the People's Republic of China offer an historic opportunity for American foreign policy—to bring more completely one-quarter of the world's population into a stable partnership with the world's community of nations, to provide a counterweight to Soviet expansionism, and to enhance economic relations that offer enormous potential for the advantage of both the United States and China.

A Peaceful Solution in Central America

We believe that expansion of Soviet influence in Central America endangers the security of the Western Hemisphere, but the single-minded pursuit of military solutions in Central America increases polarization and feeds radical alternatives. We believe that achieving the goal of an enduring peace in Central America requires that we press for a political settlement of the Civil war in El Salvador through negotiations leading to a cease-fire and a government that will pursue reforms and begin national reconstruction. The United States must oppose Soviet interference in the affairs of sovereign nations, and the best defense against Communist subversion in nations such a El Salvador will be a stable and just democratic society committed to its peoples' well-being and to the defense of their freedoms.

Curbing the Spread of Weapons.

We believe that security assistance can, in appropriate circumstances, help our friends meet legitimate defense needs. But distorting the focus of our international assistance to military sales, as has occurred over the past years, diverts developing country resources from economic and social problems. This ill-conceived policy ignites regional arms races and places sophisticated weapons in the hands of those who could one day turn them back upon us, our friends and our allies. We seek now, as in the past, effective,

international agreements to limit the transfer of conventional arms.

Promoting Economic Growth Throughout the World

We believe that there is no better way to deal with the problems of instability in developing nations than to assist in their economic growth and development, to train their peoples, and to increase our own investments whose potential dividends are building blocks in the structure of our own security. Just as Western Europe, after the success of the Marshall Plan, emerged as the single greatest market for American goods and services, so too do strong and thriving developing nations offer the single greatest market for American goods and services for economic growth here at home. This can be achieved only if we have the wisdom to pursue policies that assist these countries in their development. We should encourage the expanded development of indigenous energy resources—ranging from oil to renewable resources—both to assist their economic progress and to help diversify the world energy market, reducing the grip of OPEC and reducing competition for scarce oil.

Affirming American Values

We believe that America's ability to influence world affairs rests on what we stand for as a people. Our democratic institutions and our constant pursuit of justice, are indispensable to America's power abroad.

We are committed to insuring that America's traditional concern for freedom and human dignity will again be an integral part of our foreign policy not only because of moral and humanitarian concerns, but because of our conviction that the maintenance of a strong human rights position is essential to protect American national interests throughout the world. We need to understand that when America supports repressive dictatorships that violate the human rights of their citizenry, we play directly into the hands of the Soviets and their surrogates.

We, in effect, create our own self-fulfilling prophecy: in our effort to halt the spread of Communism, we throw our support to the very regimes that by their corruption and tyranny create the revolutionary opportunities that the Communists seek.

To insist that the affirmation of American values must be a central concern of American diplomacy is not to suggest that the United States should sever all relationships with oppressive or corrupt regimes, or that we believe in subordinating all other foreign policy objectives to carrying out a human rights crusade that ignores our own interests or political realities. It does mean that we should be far more consistent in the messages we send and the pressures we exert upon regimes that are violative of basic human rights. It does mean that we will be as critical of dictatorships of the right as of the left.

Policies which ignore basic human freedoms will continue to prove self-defeating. They make no contribution to our long-term security.

* * * * *

In the 1980s, we face new threats to our national security: the increased strategic nuclear capability of the Soviet Union; the enormous buildup of Soviet conventional forces; our dependence on imported oil; a shaky domestic economy; and, the existence throughout the world of international tension spots and conditions that breed Soviet expansion.

The Democratic Party is committed to meeting those threats head on. We believe that our country must strengthen its defenses and pursue a national security policy that meets, with resolve, every threat we will face in the 1980s.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

REPORT ON CERTAIN BUDGET DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 182

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a new deferral of $6,500,000 for the Department of Commerce and a revision to an existing deferral increasing the amount deferred by $1,250,000 for the United States Information Agency (formerly the International Communication Agency).

The details of the deferrals are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *September 23, 1982.*

MESSAGES FROM THE HOUSE

At 3:16 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands within the city of Albuquerque, N. Mex.

The message also announced that the House agrees to the amendment of the Senate to each of the following bills:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes; and

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service.

The message further announced that the House agrees to the amendments of the Senate to the amendment of the House to the bill (S. 2271) to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony.

The message further announced that the House has passed the bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to the priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. SIMON, Mr. FORD of Michigan, Mr. ANDREWS, Mr. PEYSER, Mr. WEISS, Mr. GAYDOS, Mr. PERKINS, Mr. ECKART, Mr. COLEMAN, Mr. ERLENBORN, Mr. ERDAHL, Mr. DENARDIS, and Mr. BAILEY of Missouri as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

S.J. Res. 113. Joint resolution to designate the week beginning November 8, 1981, as "National Home Health Care Week."

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness;

H.R. 5858. An act for the relief of Mocatta and Goldsmid, Ltd., Sharps Pixley & Co. Ltd., and Primary Metal and Mineral Corp.;

H.R. 6113. An act to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972;

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week"; and

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:56 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, disagreed to by the Senate; and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DELLUMS, Mr. FAUNTROY, Mr. STARK, Mr. LELAND, Mr. GRAY, Mr. MCKINNEY, Mr. BLILEY, and Mr. PARRIS as managers of the conference on the part of the House.

The message also announced that pursuant to the provisions if 15 U.S.C. 1024(a), the Speaker appoints Mr. HAWKINS as a member of the Joint Economic Committee, vice Mr. Richmond, resigned.

The message further announced that pursuant to the provisions of section 3(a) of Public Law 86-380, the Speaker appoints Mr. FRANK as a member of the Advisory Commission on Intergovernmental Relations, vice Mr. RANGEL, resigned.

HOUSE BILLS REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5470. An act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness; to the Committee on Finance.

H.R. 5858. An act for the relief of Mocatta and Goldsmid, Limited, Sharps, Pixley & Co. Ltd., and Primary Metal and Mineral Corp.; to the Committee on the Judiciary.

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes; to the Committee on Appropriations.

HOUSE BILLS PLACED ON CALENDAR

The following bill and joint resolution were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6113. An act to amend title I of the Marine Protection, Research, and Sanctuaries act of 1972; and

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, September 23, 1982, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible";

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; and

S.J. Res. 193. Joint resolution designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2118. A bill to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes (with additional views) (Rept. No. 97-574).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1698. A bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 2552. A bill to protect the safety of intelligence personnel and certain other persons (Rept. No. 97-575).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 1635. An act for the relief of the Jefferson County Mental Health Center, Inc., and of certain current and former employees thereof (with additional and minority views) (Rept. No. 97-576).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

H.R. 861. An act to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes (Rept. No. 97-577).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 479. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 861; to the Committee on the Budget.

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 465. A resolution to express the sense of the Senate that the restoration of U.S. competitiveness in agricultural trade should be pursued through every legitimate means, and without reference to political or economic problems in nonagricultural areas (Rept. No. 97-578).

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Special Report of the Committee on Veterans' Affairs regarding Budget Allocations (Rept. No. 97-579).

By Mr. STEVENS, from the Committee on Appropriations, without amendment:

S. 2951. An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-580).

By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.J. Res. 599. Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes (Rept. No. 97-581).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Winifred Ann Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission; and

Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SCHMITT:

S. 2940. A bill to amend titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972; to the Committee on Commerce, Science, and Transportation.

S. 2941. A bill to authorize funds for the National Oceanic and Atmospheric Administration for fiscal year 1983 to carry out the provisions of the National Ocean Pollution Planning Act of 1978; to the Committee on Commerce, Science, and Transportation.

By Mr. COHEN (for himself, Mr. LEVIN, Mr. ARMSTRONG, Mr. DOLE, Mr. HEINZ, Mr. RIEGLE, Mr. DURENBERGER, Mr. BIDEN, Mr. BOREN, Mr. BURDICK, Mr. CANNON, Mr. DIXON, Mr. CHAFEE, Mr. COCHRAN, Mr. LEAHY, Mr. PELL, Mr. SASSER, Mr. CRANSTON, Mr. QUAYLE, Mr. THURMOND, and Mr. METZENBAUM):

S. 2942. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate; to the Committee on Finance.

By Mr. HART:

S. 2943. A bill to require the Director of the Federal Emergency Management

Agency to report to the Congress on the National Defense Stockpile, and for other purposes; to the Committee on Armed Services.

By Mr. TSONGAS:

S. 2944. A bill to amend the Small Business Act to provide that, for purposes of the waiver of the $500,000 limitation on disaster loans, the owner of a building which contains the principal place of business of at least one-third of the private employers in a downtown business district shall be treated as a major source of employment; to the Committee on Small Business.

By Mr. MOYNIHAN:

S. 2945. A bill to amend the Federal Reserve Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HEINZ:

S. 2946. A bill to amend the Tariff Schedules of the United States with respect to corduroy and veleteen; to the Committee on Finance.

By Mr. BENTSEN:

S. 2947. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Finance.

By Mr. DOLE:

S. 2948. A bill to promote the development of nonanimal methods of research experimentation, and testing, and to insure humane care of animals used in scientific research, experimentation, and testing; to the Committee on Labor and Human Resources.

By Mr. KASTEN:

S. 2949. A bill for the relief of Tsun-lit Poon; to the Committee on the Judiciary.

By Mrs. HAWKINS:

S. 2950. A bill to require a study on the safety and effectiveness of the pertussis vaccine; to the committee on Labor and Human Resources.

By Mr. STEVENS, from the Committee on Appropriations:

S. 2951. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; placed on the calendar.

By Mr. THURMOND:

S. 2952. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process; to the Committee on Finance.

By Mr. PELL (for himself, Mr. STAFFORD and Mr. CRANSTON):

S. 2953. A bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. CRANSTON):

S. 2954. A bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, or computer education; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself, Mr. HATFIELD, Mr. STAFFORD, Mr. BAUCUS, Mr. COHEN, Mr. DANFORTH, Mr. GORTON, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MATHIAS, Mr. MOYNIHAN, Mr. RANDOPH, Mr. RIEGLE, Mr. WEICKER, and Mrs. KASSEBAUM):

S.J. Res. 253. Joint resolution to assure that regulations governing the special supplemental food program for women, infants, and children (WIC) enhance the health status of participants in the program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. KENNEDY, and Mr. HOLLINGS):

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCLURE from Committee on Energy and Natural Resources:

S. Res. 479. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 861; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART:

S. 2943. A bill to require the Director of the Federal Emergency Management Agency to report to the Congress on the national defense stockpile, and for other purposes; to the Committee on Armed Services.

STRATEGIC AND CRITICAL MINERALS INVENTORY ACT OF 1982

Mr. HART. Mr. President, although most Americans realize our Nation is dangerously vulnerable to a cutoff of imported oil, few are aware we are also quite vulnerable to a cutoff of the strategic and critical minerals demanded by our technologically advanced economy.

We are a have-not nation with respect to many critical and strategic minerals. We import over 90 percent of our needs in five key minerals—bauxite, magnesium, cobalt, chromium, and titanium. Over 50 percent of the tin, nickel, zinc, and tungsten we use comes from foreign sources. Moreover, many of these crucial ingredients in our industrial base come from evolving, unfriendly, or unstable nations. The Soviet Union, for example, is the world's largest producer of titanium sponge—an essential component of jets, missiles, and airframes. And many of these minerals come from potentially turbulent regimes in southern Africa.

Excessive dependence on other nations for critical and strategic minerals—as with excessive dependence on other nations for oil—is an invitation to more of the threats of recent times: Supply cutoffs, inflationary price increases, and the possibility of blackmail by foreign governments. Our economic health requires a secure, uninterrupted supply of these resources.

Since World War II, our Government has maintained a strategic stockpile of 93 key commodities—including the many minerals critical to our security. One year ago, the President directed the Federal Emergency Management Agency (FEMA) to begin purchasing critical and strategic minerals to meet stockpile goals. Although this is the first major effort to replenish the stockpile of critical and strategic materials since the 1960's—we are still critically deficient in a number of areas. This represents a dangerous breach in our national security.

We need a national strategic minerals policy. Such a policy would prepare us not only for supply interruptions in the present, but also for a future based on conservation, recycling, and the production of domestic substitutes. But first we need to know how dependent we really are. We need to know the consequences of supply interruptions for each mineral critical to our Nation. Currently, it is difficult to reach a precise estimate—for each mineral—of the degree of our vulnerability or of the adequacy of our stockpiles. And yet this information is essential if we are to have a strategic minerals policy that assures us an uninterrupted supply of these precious materials.

To acquire this information, I am today introducing legislation that would direct FEMA, in consultation with the Department of Defense, Energy, and Interior, to prepare a report on the Nation's strategic and critical minerals. This report would contain information on the location and quantity of our mineral resources; the adequacy of our stockpiles; and the degree of our vulnerability to supply interruptions—and the likely consequences—for each of these critical and strategic minerals. Such a comprehensive report is an important first step in what I hope will be an effective national critical and strategic minerals policy.

We have paid dearly as a nation for our excessive dependence on foreign oil. A product society would take action now to lessen its dependence on other resources just as important to our economic health and national security.

By Mr. BENTSEN:

S. 2947. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Finance.

CERTAIN BUSINESS TAXABLE INCOME OF NONPROFIT CHARITABLE ORGANIZATIONS

● Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation that will insure that many of America's military veterans can continue to receive the benefits and services provided them by veteran service organizations. My bill amends the Internal Revenue Code to exempt from

taxation income received by nonprofit, charitable organizations through the exchange/rental or sale of names and addresses from donor or membership lists.

This revision in the tax code is essential to the continued operation of nonprofit organizations such as the Disabled American Veterans (DAV). Chartered by Congress in 1932, the DAV membership consists of veterans who incurred service-related wounds, injuries, or disease as a result of wartime military service. Over 700,000 veterans have joined the Disabled American Veterans, which provides many benefits and services to its membership and the veteran community at large. For example, the DAV represents veterans, their dependents and survivors before the Veterans' Administration in determining compensation, pension, hospitalization and other benefits that they are entitled to. These helpful services are paid for with contributions and funds raised by the DAV.

Mr. President, my legislation insures that the DAV and other nonprofit organizations can continue to solicit tax-deductible contributions from their donor lists. The DAV maintains a list of approximately 6 million names. Donor list attrition, as a result of factors such as death or change of address, translate to a loss of approximately 700,000 names a year from the mailing list. In order to replace these names, the DAV rents and exchanges its list with other group organizations, including both public, commercial, and private exempt organizations.

Under current law, income earned by an exempt organization from a trade or business that is carried on regularly and is not substantially related to the activities constituting the basis for the organization's tax exemption, is considered unrelated business income and is subject to Federal taxation. The Court of Claims and the Internal Revenue Service recently ruled that the DAV's income from donor list rental was unrelated business income and, therefore, subject to taxation. Since the DAV's sole revenue raising function is from the donor list, I believe that this activity is substantially related to the nonprofit charter and function of the DAV and should be tax-exempt. My bill amends section 513 of the Internal Revenue Code to state clearly that income derived from this activity will be tax-exempt for nonprofit organizations.

Our war veterans have paid a high price for the freedoms and opportunities that we enjoy in America. Organizations like the Disabled American Veterans provide important services for those persons who have made personal sacrifices and suffered personal losses in the defense of our country. My amendment assures that the DAV and other organizations maintain their strong link with the millions of citizens they serve. In addition, this legislation reflects the type of contribution that the Congress can make to the private sector, which is accepting more and more of the responsibility for providing our national needs.

Mr. President, I urge the Senate to act on this legislation quickly and favorably. And, I ask unanimous consent that a copy of the bill be printed in the RECORD at the conclusion of my remarks.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 513 of the Internal Revenue Code of 1954 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) EXCHANGES, RENTALS, AND SALES OF NAMES FROM DONOR LISTS OR MEMBERSHIP LISTS.—The term 'unrelated trade or business' does not include, with respect to an organization subject to the tax imposed by section 511, any trade or business of such organization which consists of exchanging, renting, or selling names and addresses of donors to, or members of, such organizations."

(b) The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.●

By Mr. DOLE:

S. 2948. A bill to promote the development of nonanimal methods of research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing; to the Committee on Labor and Human Resources.

HUMAN CARE AND DEVELOPMENT OF SUBSTITUTES FOR ANIMALS IN RESEARCH ACT

● Mr. DOLE. Mr. President, today I am introducing a bill to promote nonanimal or alternative methods of research and to insure the humane treatment of animals used in scientific research.

I would state at the outset that this legislation in no way affects animals used for food production. It is important to those of us who are concerned with food production that steps are taken to distinguish between the type of legislation addressing truly humane issues versus the types of legislation that more radical factions would propose which, however well intentioned, would ultimately cause the disruption of our production marketing system.

Interest in this subject has built over the past decade and several resolutions and bills have been introduced seeking to promote the development of methods of research that would not use animals or would use fewer animals and cause reduction of pain and suffering.

A similar bill, H.R. 6928, has been introduced on the House side after hearings in the Subcommittee on Science, Research and Technology. After continuing discussions and revisions of drafted proposals with members of the animal welfare and scientific communities, this legislation resulted.

Specifically, this bill places emphasis on the development of methods of research and testing that do not require live animals, or would reduce the number of animals used and reduce pain. The Secretary of Health and Human Services is authorized to make awards for such alternative methods. An advisory panel appointed by the Secretary will insure consideration is given to such alternative programs and advise him of his responsibilities in this area. I have specified in the Senate version of this legislation that the scientific advisory panel would, after 3 years, report to the Secretary of Health and Human Services on the impact of this act on industry costs, research, product prices and progress made in lab accreditation. It is intended this study will not require additional Federal outlays. The Secretary will direct the national toxicology program to significantly increase its resources for research and development on new methods and validation of nonanimal research testing.

This bill would insure humane treatment of lab animals by requiring federally funded research entities to be accredited by a private agency designated by the Secretary. Research entities will have 10 years to become fully accredited and in the interim they can receive provisional accreditation if they have demonstrated progress toward the 10-year goal. Each research entity would maintain an animal care committee including a veterinarian and a nonmember of the entity to review ongoing research programs and proposed programs. The committee would make semiannual inspections of the facilities and issue their report to the appropriate Federal agency.

The bill establishes certain procedures that peer reviewers must look for in research proposals involving the direct use of conscious animals. As I mentioned earlier, the legislation would exempt animals used for agriculture production and is not opposed by the National Cattlemen's Association or the National Pork Producer's Association. The legislation will sunset after 10 years unless reacted.

I believe this bill will achieve a balanced and fair compromise of a problem which has received increased attention over the last few years. It will provide no new budget authority or tax expenditures yet it will allow laboratory techniques to keep pace with advancing technology.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF HUMANE CARE AND DEVELOPMENT OF SUBSTITUTES IN RESEARCH ACT

TITLE I

The Secretary of Health and Human Services (HHS) is authorized to make awards to sponsor research into methods that 1) do not use live animals, 2) reduces the number of animals used or produces less pain.

An advisory panel will ensure every consideration will be given to such programs for funding and they will advise the Secretary of his responsibilities in this area. The panel will report to the Secretary after 3 years the impact of this legislation on industry costs, research, product prices and progress made in lab accreditation.

The Secretary will direct the National Toxicology Program to significantly increase its resources for R&D on new methods and validation of nonanimal research testing.

TITLE II

To receive federal funding, a research entity must be accredited by a private agency designated by the Secretary. 10 years will be allowed for full accreditation to allow for structural changes and updating facilities. Provisional accreditation will be given to entities demonstrating progress towards the 10 year goal.

Research entities must maintain an animal studies committee which includes a veterinarian and a non member of the entity. The committee will make semiannual inspections of the facilities to review research.

TITLE III

Establishes certain procedures that peer reviewers must look for in research proposals involving the direct use of conscious animals. For example: proper use of drugs; no animal will be used in more than one major operation.

TITLE IV

Exempts animals used for food production.

TITLE V

Sunsets after 10 years unless reenacted.●

By Mrs. HAWKINS:

S. 2950. A bill to require a study on the safety and effectiveness of the pertussus vaccine; to the Committee on Labor and Human Resources.

PERTUSSIS AND PERTUSSIS VACCINES STUDY ACT OF 1982

● Mrs. HAWKINS. Mr. President, this Nation's childhood immunization program is a proven safeguard against pain, suffering, and death. Thanks to strong Federal involvement in immunization programs, this country has seen a dramatic decline in severn preventable childhood diseases: Polio, measles, rubella, diphtheria, tetanus, pertussis, and mumps. Don't forget, though, that in 1952 a poliomyelitis outbreak struck 58,000 Americans, causing 14,000 deaths and leaving thousands of others confined to wheelchairs and in braces for life. Today, because of the antipolio vaccine, this crippling disease has been all but wiped out in the United States.

Earlier this year, when the immunization program was threatened by reduced funding, my Subcommittee on Investigations and General Oversight immediately took action. I became alarmed to hear that lower budget levels would result in 33 percent fewer children being immunized against the seven deadly diseases. It is unconscionable for us to endanger our children, and ourselves, to another explosive epidemic. Fortunately, because of the public attention that the subject received, the funding levels will be restored.

Unfortunately, I learned that aside from issues of funding and public disinterest, the childhood immunization program is threatened by a more potent enemy: fear. The public fears that immunization will prove an even greater threat to children than the disease. This is particularly true of the pertussis component of the diphtheria pertussis tetanus vaccine. DPT is sometimes accompanied by encephalopathy and subsequent permanent neurologic damage. Death has also followed pertussis vaccination. The problem is that no one seems to be able to anwer, definitively, how often adverse reactions occur or whether we are experiencing a true cause-effect situation.

It would indeed be tragic if effort to eliminate or control whooping cough in this country we are hampered because people acting out of fear and ignorance see fit to oppose the pertussis vaccine. For this reason, I am introducing legislation that would give the immunization program a shot in the arm. My legislation would reduce the risk of adverse reactions from the pertussis vaccine. It promotes the development and use of the safest, most effective pertussis vaccine possible. My legislation also promotes more careful monitoring, more thorough reporting, and better recordkeeping of adverse reactions. The legislation would require an in-depth study of problematic questions about the pertussis vaccine. Relevant Government agencies would study the issues and make recommendations for administration and legislative changes to Congress.

Let us do all we can to prevent the revival of a serious childhood epidemic. Public policy dictates that an effective and safe pertussis vaccine program be implemented—to save money, and our children's health.●

By Mr. THURMOND:

S. 2952. A bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process; to the Committee on Finance.

PAYMENT OF DISABILITY BENEFITS UNDER CERTAIN CIRCUMSTANCES

Mr. THURMOND. Mr. President, I am introducing legislation today to protect disabled social security recipients from having their benefits discontinued prematurely during periodic eligibility reviews by the Social Security Administration.

For the benefit of my colleagues who may not have had an opportunity to focus on this problem, let me briefly outline the background and need for this legislation. In response to the congressional directive contained in the 1980 social security amendments, the Social Security Administration has instituted a practice of reviewing each disability case at least once every 3 years. Implementation of these continuing disability reviews as required by Congress has led to a dramatic increase in the number of recipients whose payments are abruptly and erroneously terminated, only to eventually be reinstated on appeal when the cases come before an administrative law judge. This appeal process can take months, however, and in the meantime the disabled persons may be without any source of income, resulting in extreme hardships for the affected individuals and their families.

Mr. President, I want to make it clear that I have no quarrel with the concept of periodic disability case reviews. Indeed, I strongly support the need for such continuing reviews in order to prevent abuses of the social security disability system, to protect its solvency, and to ensure that only those truly deserving and qualified for disability payments continue to receive them. At the same time, however, the review procedure must be fair and just. It should be conducted very carefully and thoroughly, with compassion and understanding for the persons most directly impacted by the review process—the recipients of these disability payments and their dependent family members. Unfortunately, in too many instances that have come to my attention seeking my assistance, the elements of carefulness, fairness, and compassion seem to have been lacking.

Regardless of whether this is due to insufficient personnel to handle the workload, carelessness or insensitivity on the part of some agency employees, or flaws inherent in the operation of the disability program, the Social Security Administration and Congress have a responsibility to take every reasonable and appropriate action to correct these problems. My bill is an effort in that direction.

Mr. President, this legislation is not intended to cure all of the problems associated with the social security disability program, which is in need of comprehensive congressional review and reform. Rather, it is offered as a short-term measure to insure that program recipients are protected from unnecessary hardship pending a thorough examination of the entire disability program by Congress.

During my personal contacts and correspondence with the citizens of my State and others across the Nation, I have become greatly con-

cerned about the increased volume of social security disability cases that have come to my attention. Many, if not most, of these constitute previous recipients who have been subjected to the review process and who have been ruled ineligible for further disability payments. In many instances, these terminations appear to have occurred without any significant improvement in the conditions which qualified the individuals for disability benefits in the first place.

In the past week alone, Mr. President, I received 55 written requests for assistance from constitutents facing reevaluation and possible termination of their disability benefits. While experience indicates that a high percentage of those terminated will eventually get their disability benefits reinstated—most frequently, when they finally obtain a hearing before an administrative law judge—the financial hardships arising from months of waiting for their appeal to be processed are simply more than some families can stand.

Mr. President, I wish to cite just two examples from among the many cases in which I have been asked to render assistance. In one unfortunate situation, a former veteran has been unable to work for the last 3 years due to frequent hospitalization. He had been receiving social security disability benefits but was then abruptly terminated after a review of his file. The veteran has appealed the termination decision on the basis that his condition of total disability has not improved and he is still unable to work. After 7 months without benefits, he and his family are on the brink of financial disaster, and a final decision is still pending before an administrative law judge.

In another typical case, an individual was forced to sell his home in order to pay medical expenses and eventually declare bankruptcy before recent reinstatement of his disability benefits. This man and his family of five would not have had to endure these severe hardships if the legislation I am proposing had been in effect. These cases are indicative of the difficulties which many recipients are facing when their benefits come up for reevaluation. I am distressed by this situation, and I feel something must be done to ease the burden of our entitled disabled citizens.

Mr. President, the bill I am proposing would amend the current law under which payments are terminated 2 months following a determination by the State agency that a recipient is no longer disabled. In light of the statistics indicating that some two-thirds of those terminated are eventually reinstated on appeal by administrative law judges, I believe a more sensible and compassionate approach would be to continue paying benefits during the appeal process until there has been an opportunity for a hearing before an administrative law judge and the judge has concurred in the agency decision that benefits should be terminated.

There would, however, be certain exceptions and conditions associated with the requirement in my bill that benefits continue in order to prevent abuses. First, the disability recipient whose case is reviewed and who is initially ruled ineligible for further benefits would have to elect to receive payments during the appeal process with full knowledge and agreement that repayment will be required if the appeal is unsuccessful. Second, benefits could be sooner terminated if a recipient, without good cause, fails to appeal an adverse decision, fails to meet prescribed deadlines, or otherwise does not fully cooperate with the Social Security Administration in the reconsideration and appeal process. Third, the agency would not have to continue benefits in any case in which it finds that the recipient is not only able to work but is in fact performing gainful employment and receiving substantial earnings from work. Finally, the Social Security Administration would be able to discontinue benefits in any case which is deemed to be "patently nonmeritorious and without substantial evidence" to support the claim of continued disability.

Mr. President, other Senators have introduced somewhat similar legislation on this same subject, but I believe the above-described safeguards that I have built into my bill are unique and necessary. Indeed, there may well be further improvements that could be made in the legislation I am now submitting. I believe, however, that the concept I am offering is a good one and that Congress needs to address as soon as possible the problems and undue hardships experienced in the continuing reviews of social security disability cases. My bill is offered in that spirit, and I hope it receives most careful consideration by other Senators and the Finance Committee.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

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

S. 2952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing with respect to the determination that he is not so entitled is made under section 221(d),

such individual may elect to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made after opportunity for such a hearing. If such decision, made after opportunity for such a hearing, provides that such individual is entitled to such benefits, and the Secretary provides for a further review of such decision by the Appeals Council or otherwise, the additional period described in the preceding sentence shall and with the month preceding the month in which a final determination by the Secretary is rendered. Such election shall be made in such manner and form and within such time as the Secretary shall by regulations prescribe, and shall include a signed acknowledgment by such individual that such benefits under this title may later be determined to be overpayments and subject to repayment, as provided in paragraph (2).

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending a hearing, and the decision after opportunity for such hearing (or after further review provided for by the Secretary) affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title.

"(3) The provisions of paragraph (1) shall not apply in any case in which—

"(A) such individual fails to cooperate, without good cause, in furnishing information with respect to his disability or in otherwise complying with the procedures and requirements established under this title;

"(B) the termination of benefits is based on a finding made in accordance with subsection (d)(4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity; or

"(C) the Secretary determines that such individual's claim for continuation of such benefits is patently nonmeritorious and without substantial evidence to support such claims.".

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this Act, or were made prior to such date but with respect to which a timely request for a hearing under section 221(d) of the Social Security Act was made on or prior to the date of the enactment of this Act and with respect to which such hearing was not held prior to such date.

By Mr. PELL (for himself, Mr. STAFFORD, and Mr. CRANSTON):

S. 2953. A bill to provide for a program of financial assistance to States

in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. CRANSTON):

S. 2954. A bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, or computer education; to the Committee on Labor and Human Resources.

EDUCATION FOR ECONOMIC SECURITY LEGISLATION

Mr. PELL. Mr. President, on behalf of myself and my two distinguished colleagues, Senator STAFFORD and Senator CRANSTON, I am today introducing the Education for Economic Security Act. This legislation deals with our Nation's capacity to meet and cope with the high technology changes that are occurring with ever-increasing rapidity in our economy. In addition, I am introducing a companion piece, the Teacher Training Assistance Act, to deal with the teacher shortage in math and science.

Within the present decade, it is estimated that our Nation will face a shortage of some 2½ million skilled workers. Many, if not most, of these jobs will occur in high technology industries. A worker in these industries must be well-prepared and have an excellent educational background and training in mathematics, science, and computer learning and instruction. "The Education for Economic Security Act" is designed specifically to meet this need by providing funds to the States to upgrade education in mathematics, science, computer learning and instruction, foreign languages, and employment-based vocational training.

To meet the immediate need for highly skilled workers, this bill provides funds at both the secondary and postsecondary education levels for employment-based vocational training. The States would have considerable latitude in the use of these funds for programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. Community and junior colleges and vocational education facilities and schools would therefore be able to tailor their education and training programs to particular industries within the communities and the areas which they serve.

The problem of meeting the needs of a high technology society, however, go far beyond the present decade. We must be very concerned, therefore, with the kind of mathematics, science, and computer learning and instruction preparation that is being given in our Nation's elementary and secondary schools. In this regard, the present situation certainly does not bode well for the future.

Only one-third of our Nation's high schools offer more than 1 year of mathematics or science. At least one-half of all high school students in the United States have taken no more than 1 year of biology, no other science, and no mathematics beyond algebra. In the last decade, the shortage of science and equipment in the schools has cut, by more than half, the exposure to any form of laboratory experience of even those students who do take science courses.

Compared with the Soviet Union, we fare very badly indeed. The average American high school student takes 1 year of geometry compared to the Soviet student's 10-year geometry curriculum. Only 16 percent of U.S. high school students take 1 year of chemistry, including 1 year of organic chemistry.

To alleviate this situation, the legislation which Senator STAFFORD, Senator CRANSTON, and I are introducing today would provide funds to local education agencies for school programs in mathematics, science, and computer learning and instruction. Again, as in the case of the vocational education programs, local schools would have considerable latitude in fashioning educational programs that would meet the students' needs. The only requirement in the Federal legislation would be that the program implemented at the local level involve a substantial number of students and several grade levels. We believe this is important so that the programs developed will be comprehensive and so that they will reach into the elementary grades and start preparing children for careers that will require this kind of training but which the children may not enter for 10 to 15 years to come.

As we improve education and training for the needs of our domestic economy, we must also be concerned with our role in the world economy. In this regard, I am alarmed that enrollments in foreign language courses have decreased by nearly one-fifth in the past decade and that less than one-half of the high school graduates in our country will have had even 1 year of a foreign language. More students and adults are now learning English in China than there are English-speaking people in the United States. In an increasingly interdependent world economy in which the United States must play a large, competitive role, this situation is most disconcerting.

The Education for Economic Security Act provides funds to both local education agencies and institutions of higher education to upgrade programs of foreign language instruction. We do not specify the languages to be studied, and we do not attempt to require a particular kind of program. We believe this is best left to the individual institutions and agencies. We simply recognize the need for an intensified effort in foreign language instruction and we offer an incentive to provide such instruction through Federal funding assistance.

While we face a critical problem with respect to the number of students who take math and science courses, we face an equally severe problem with respect to teachers. U.S. News & World Report has said that alleviating the math teacher shortage is one of the most immediate and pressing tasks facing colleges and school systems. This shortage is, in part, the result of increased competition from private industry. For instance, schools are losing five times as many science and mathematics teachers every year to industry as to teacher retirement. If the present exodus of qualified math and science teachers from secondary schools continues, in 10 years, our Nation will have suffered a net loss of 35 percent.

Today, 48 percent of the teaching positions in math are either vacant or filled by uncertified teachers. Unfortunately, this situation does not show signs of reversal. A study by the National Science Teachers Association over the last decade reveals a 77-percent decline in the number of secondary school math teachers being trained and a 65-percent decline in science teachers.

The tragedy is that this shortage is occurring at the same time that we face a surplus of teachers in areas such as English and history. To remedy this serious situation, the legislation we are proposing would provide funds to institutions of higher education to accomplish three objectives: To train new teachers in math, science, and computer learning and instruction; to retrain teachers from other disciplines to teach mathematics, science, and computer technology; and to provide inservice training for current math, science, and computer technology so that those teachers might improve and upgrade their skills.

The way in which the program is developed, the kind of incentives provided, and the specifics of the program are left up to the State higher education agencies and the participating institutions of postsecondary education. There is wide latitude given with respect to how the Federal funds are used within the context of meeting the very pressing need for more mathematics and science teachers.

In addition, the companion bill, "The Teacher Training Assistance Act," can play an important role in helping end the math and science teacher shortage that we are now expecting. This legislation would apply

only to individuals entering the teaching profession in mathematics, science, and computer technology. The teacher would be able to cancel 15 percent of his or her NDSL obligation each year, for up to 5 years or 75 percent of the teacher loan obligation. In return, the teacher would be obligated to remain in the teaching profession for 5 consecutive years. We believe that enactment of this legislation will be of considerable help in encouraging young men and women to become math and science teachers.

Mr. President, today we face an immediate need for more highly skilled men and women to meet the needs of new and emerging technologies. We are confronted with the need for more elementary and secondary school students to receive education and training in mathematics, science, and computer learning and instruction. And we are beset by a severe shortage of math and science teachers.

Failure to address these problems will most certainly have an adverse impact upon our Nation and its position in the world community. The legislation we are introducing today can play a significant role in reversing the present situation, and in helping provide our Nation with the strong, vital and well-trained work force it must have in this decade and the one ahead.

I urge my colleagues to give this legislation their most careful consideration, and I ask that the full text of both bills be printed in the RECORD at this point.

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

S. 2953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Act".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to make financial assistance available to States to improve instruction and learning in mathematics, science, computer education, foreign languages, and vocational education and thereby contribute to strengthening the economic security of the United States.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "Governor" means the chief executive of any State.

(2) The term "institution of higher education" means an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (i) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (ii) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (A), (B), (D), and (E). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (A), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

(3) The term "junior or community college" means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, country, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term "Secretary" means the Secretary of Education.

(6) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands.

(7) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(8) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of public higher education, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PROGRAM AUTHORIZED

SEC. 4. (a) The Secretary is authorized to make grants to States, in accordance with the provisions of this Act, to pay the Federal share of the costs of strengthening instruction in mathematics, science, computer education, foreign languages, and vocational education.

(b) There are authorized to be appropriated $400,000,000 for each of the fiscal years 1984, 1985, and 1986 to carry out the provisions of this Act.

ALLOTMENTS TO STATES

SEC. 5. (a)(1) From the amount appropriated to carry out this Act for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the amount so appropriated as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 percent of the amount appropriated under section 4(b) in any fiscal year.

(2) For the purpose of this subsection, the term "state" does not include Guam, American Samoa, or the Virgin Islands.

(3) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this Act which the Secretary determines will not be required for that fiscal year to carry out this Act shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of the amount appropriated for such year under this Act. The Secretary shall allot the amount appropriated pursuant to this subsection among Guam, American Samoa, and the Virgin Islands according to their respective needs for assistance under this Act. In addition for each fiscal year the Secretary shall allot from such amount to—

(1) the Secretary of the Interior the amounts necessary for programs authorized by this Act for children in elementary and secondary schools operated for Indian children by the Department of the Interior, and

(2) the Secretary of Defense the amounts necessary for programs authorized by this Act for children in overseas dependent schools of the Department of Defense.

The terms upon which payments for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined by such criteria as the Secretary determines will best carry out the purposes of this Act.

IN-STATE APPORTIONMENT

SEC. 6. (a) Sixty-five per centum of each State's allotment under section 5 of this Act shall be used for elementary and secondary and vocational education programs in accordance with section 7.

(b) Thirty-five per centum of each State's allotment under section 5 of this Act shall be used for higher education programs in accordance with section 8.

ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION PROGRAMS

SEC. 7. (a) The amount apportioned under section 6(a) from each State's allotment, shall be used by the State educational agency to strengthen elementary, secondary, and vocational education programs in accordance with the provisions of this section.

(b)(1) Forty per centum of the amount apportioned under this section shall be distributed to local educational agencies within the State to be used for mathematics and science instruction, foreign language instruction, and computer education programs, together with instructional materials related to such instruction and programs.

(2) The State educational agency shall distribute funds under this subsection to local educational agencies in the State based upon—

(A) the size of each local educational agency as determined by the number of children aged 5 to 17, inclusive, in the schools of such agency; and

(B) the size of the proposed program in terms of the number of students to be served and the number of grade levels involved in the program.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this Act so that a substantial number of students in the schools of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c)(1) Fifteen percent of the amount apportioned under this section shall be used for foreign language instruction in the schools of local educational agencies in the State.

(2) The State educational agency shall distribute funds under this subsection in accordance with criteria described in paragraph (2) of subsection (b) of this section.

(d) Ten percent of the amount apportioned under this section shall be used by the State educational agency to assist exemplary programs in mathematics instruction, science instruction, foreign language instruction, and computer learning and instruction, together with instructional materials and necessary technical assistance, and the dissemination of information to all local educational agencies within the State relating to the exemplary programs assisted under this subsection.

(e)(1) Thirty-five percent of the amount apportioned under this section shall be used, by the State agency responsible for vocational education, for employment based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. Ten per centum of the 35 per centum available under this subsection shall be used for programs described in the preceding sentence conducted in correctional institutions.

(2) The remaining 15 percent of the amount available under this section shall be used for foreign language instruction.

(f) The amount available under this section shall be distributed among vocational education schools and area vocational schools in accordance with criteria established by the State agency responsible for vocational education.

HIGHER EDUCATION PROGRAMS

SEC. 8. (a) The amount apportioned under section (6)(b) from each State's allotment under this Act shall be used for higher education programs in accordance with this section.

(b) Fifty per centum of the amount available under this section shall be used for—

(1) elementary and secondary school teacher training programs for teachers who will specialize in teaching mathematics, science, and computer learning and instruction;

(2) retraining of elementary and secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, or computer education to specialize in the teaching of mathematics, science, or computer education; and

(3) in-service training for elementary and secondary school teachers of mathematics, science, and computer education designed to improve their skills.

(c)(1) Thirty-five per centum of the amount available under this section shall be used for employment-based progrmas, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction and basic engineering instruction.

(2) The amount available under this subsection shall be distributed among institutions of higher education, including community and junior colleges, in accordance with criteria established by the State agency for higher education.

(d) Fifteen per centum of the amount available under this section shall be used for foreign language instruction in institutions of higher education within the State.

(e) The State agency for higher education shall distribute funds available under this section among institutions of higher education in the State who apply for payments under this section.

STATE APPLICATION

SEC. 9. (a) Each State which desires to receive grants under this Act shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary reasonably requires. Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 7 (b), (c), and (d), the State agency for vocational education described in section 7(e), and the State agency for higher education for programs described in section 8, as the agency or agencies responsible for the administration and supervision of the programs described in sections 7 and 8, as the case may be;

(2) describe the programs for which assistance is sought under the application;

(3) describe assurances that payments will be distributed by the State in accordance with the provisions of sections 7 and 8, as the case may be;

(4) provide procedures for submitting applications—

(A) by local educational agencies, area vocational schools, and correctional institutions, for programs described in section 7; and

(B) by institutions of higher education for programs described in section 8, within the State for distribution of payments under this Act, and for approval by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

(5) provide assurances that Federal funds made available under this Act for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such funds, be available for the purposes described in sections 7 and 8, and in no case supplant such funds; and

(6) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this Act, and (B) to ensure the verification of the programs assisted under the application.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

PAYMENTS

SEC. 10. (a) From the amounts appropriated under section 4(b), the Secretary shall pay, in accordance with the provisions of this Act, the Federal share of the costs of the programs described in the application approved under section 10(b).

(b)(1) The Federal share for each fiscal year shall be 50 per centum.

(2) Payments under this Act shall be made as soon after approval of the application as practicable.

S. 2954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 465(a)(2) of the Higher Education Act of 1965 is amended—

(1) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "or", and

(2) by adding at the end thereof the following new clause:

"(E) as a full-time teacher in a public or other nonprofit elementary or secondary school system who teaches mathematics, science, or computer education if the teacher enters into an agreement with the Secretary to teach for a period of not less than 5 consecutive years.".

(b) Section 465(a)(3)(A) of such Act is amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word "and", and

(2) by adding at the end thereof the following:

"(iv) in the case of service described in clause (E) of paragraph (2) not to exceed a total of 75 per centum of such loan at a rate of 15 per centum for each year of qualifying service.".

Mr. CRANSTON. Mr. President, I am pleased to join as cosponsor—with my colleagues Senator PELL and Senator STAFFORD—of the Education for Economic Security Act. The bill provides a program of financial assistance

to States for the purpose of strengthening instruction in mathematics, science, computer education and learning, foreign language instruction, vocational education, and other areas pertinent to public education in an age of new and emerging technologies.

Education for an age of technology requires new thinking about schooling priorities. Right now, we have a curriculum so weak in science and technology that U.S. schools rank closer to those in the developing nations of the world than to schools in the industrial democracies which we consider our peers. Two-thirds of U.S. school districts allow graduation from high school with no more than one course in science or mathematics. About half of all high school graduates have had no mathematics or science beyond the 10th grade. Less than a third of our high schools teach calculus. Only about 1 in 10 high school graduates has studied physics.

Critical, sophisticated new growth industries—computers, robotics, and biotechnology—to name a few—demand workers skilled in technology and a populace conversant with the rudiments of science. Yet, we are graduating a generation of illiterates in science and technology. The implications for national productivity are staggering. Every evidence we have is that high-technology industries—the using of advanced math, science, and the techniques of physics created since World War II to produce a product—will maintain rapid job growth. In my own State of California alone, the California Department of Economic and Business Development has estimated the growth of high-technology jobs at 327,000 from 1980 to 1990, a growth of 51.4 percent over the decade.

Overseas, our competition inches ahead of us. Japan—with a population about half the size of ours—graduated about 24,000 more engineers last year than did the United States. Overall achievement scores in Japan in science and math are the highest in the non-Communist world, especially with respect to problem solving skills. The U.S.S.R. in 1974 had nearly twice the number of engineers as did the United States. The number of engineering graduates in the U.S.S.R. has risen to 300,000 in recent years, compared with 63,000 in the United States.

A strong high school background in math and science is especially critical to prepare professional workers in high-technology industries. But even workers not directly employed in high-technology industries also need a level of technological literacy, for a large number of jobs will be affected by expanding technologies. Pacific Gas & Electric Co. has estimated that 80 percent of its new employees need to be computer literate.

One of the key areas that needs to be addressed is qualified instructional personnel. What we know about the current availability of teachers of math and science is, at best, discouraging: There is a critical shortage of qualified teachers: 50 percent of high school science and mathematics teachers employed, nationwide, by high schools this year are unqualfied and teach only by emergency certificate. The number of secondary school mathematics teachers being trained has declined by 77 percent over the past 10 years. Science teacher training has dropped 65 percent. The results have serious implications for America's ability to compete in a technological world.

In California, 170 long-term emergency credentials were issued in math for 1980-81 because of the shortage of math teachers. A teacher does not necessarily need college credits or experience in the subject area in which an emergency credential is issued.

The shortage is getting worse, if the Los Angeles Unified School District, the hardest hit with the shortage in the State is any indication. In 1981-82, 333 long- and limited-term emergency credentials were issued compared with a total of 169 credentials of both types issued in 1980-81.

Recent national studies show math and physics to be the areas of greatest shortfall in teacher supply, with shortages that have grown progressively worse since 1976.

Another recent national survey shows over 50 percent of newly employed science teachers as being employed on an emergency basis. The figure is a whopping 84 percent for the Pacific States.

A 1981 survey showed that of a sample of almost 60,000 teachers who teach science 50 percent of the time or more, 18 percent were nonscience majors; 26 percent of these 18 percent were math majors, 24 percent were physical education majors, 11 percent were social studies majors and 7 percent were home economics majors.

The shortage of math and science teachers may become worse due to few students entering math and science teacher careers. A recent survey by the University of California-Berkeley's Department of Education showed only 92 students currently enrolled in math and science teaching majors in all the public universities in the State with the exception of San Jose State—a number that is expected not nearly to fill the gaps left by teachers retiring and leaving their jobs for industry, where salaries, status, and other benefits are larger than in the teaching profession. A national survey shows five times as many teachers leaving their jobs for industry as for retirement.

National surveys show declining numbers of science and math teachers being produced in teacher-training programs.

A related issue is the shortage of graduate engineering students choosing to remain in the academic world to teach. Graduate enrollments nationally have dropped significantly because of the high salaries paid by industry to undergraduates right out of school. The gap between a student graduating with an electrical engineering degree, in his first job, and the professor who teaches him is about $6,000—in favor of the student. In California, there are now openings for engineering faculty at all of California's public colleges and universities. In the fall of 1980 10 percent of the 16,200 engineering faculty positions in 244 engineering schools in the United States were vacant.

We have no national policy to address the problem. In fact, we have abandoned Federal leadership in practically every relevant area, from basic research to teaching resources. Facing these issues is not just a matter of national pride, it is a matter of national survival. We need programs, training, and equipment. Education funding crises face every State in the Union. Of 137 California school districts surveyed, 19 percent said they had reduced their science programs and over 12 percent had reduced their math program as a result of State budget cuts. If education cuts proposed by the Reagan administration are carried out in full, California would lose 41 percent of its Federal funding by school year 1983-84. Innovative programs—such as computer learning—are likely to be among the losers in the scramble for program funds.

I want to emphasize, Mr. President, that we wish to further the education of Americans as wise and compassionate participants in our democracy. Although the emphasis of this legislation is on needed educational changes in an age of emerging technologies, we do not choose science and technology over the arts and humanities. We need not make those kinds of choices. We remain committed to the totality of an educational process that has as its goal a citizenry fully functional in the arts as well as the sciences.

The Education for Economic Security Act is a comprehensive attempt to assist schools in meeting the specific needs of a technological age. It provides, on a matching funds basis, grants to the States to upgrade instruction in mathematics, science, computer learning and instruction, foreign languages, and vocational education. I ask unanimous consent that an analysis of the bill be printed at this point in the RECORD.

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

THE EDUCATION FOR ECONOMIC SECURITY ACT

GENERAL PROVISIONS

The Act would provide funding to make grants to upgrade instruction in mathematics, science, computer learning and instruction, foreign language, and vocational education.

Rate of payment to states would be based on a formula expressing the ratio that the number of children aged 5 to 17, inclusive, in the state bears to the number of those children in all the states. There would also be a small state minimum of one-half of 1 percent.

The Federal share would be 50 percent, and the non-Federal share would be 50 percent including cash and in-kind.

ELEMENTARY, SECONDARY AND VOCATIONAL EDUCATION PROGRAMS

Sixty-five percent of the State's share of the funds provided under this Act shall go to the State education agency for programs in mathematics, science, computer learning and instruction, new and emerging technology training, and foreign language education.

Local programs in mathematics, science, computer learning and instruction

Forty percent of the funds provided to the State education agency would go in the form of grants to local education agencies. These grants would be for the purpose of instructional materials and comprehensive education programs in mathematics, science, and computer learning and instruction.

The size of a grant to a local education agency would be based on a combination of the following:

(1) the size of the local education agency as determined by the number of children aged 5 to 17, inclusive, in the schools of such agency;

(2) the size of the proposed programs in terms of the number of students and grade levels served.

Renewal of grants would be based upon the size of the local education agency and upon an assessment of whether or not the local education agency had implemented a comprehensive program of mathematics, science, and computer learning and instruction involving several grade levels and a substantial number of students. Implementation of a part of a comprehensive, multi-year program would be considered as meeting these requirements.

Local programs in foreign language instruction

Fifteen percent of the funds provided to the State education agency would go to local education agencies for programs in foreign language instruction. Initial grants and grant renewal would be based upon the same criteria as used for local programs in mathematics, science, and computer learning and instruction.

State programs

Ten percent of the funds provided to the State education agency would be used by that agency to fund exemplary programs in mathematics, science, foreign language education, and computer learning and instruction; for instructional materials; for technical assistance in these areas to local education agencies; and for dissemination of information to local education agency on exemplary programs and instructional materials.

Vocational education programs

Thirty-five percent of the funds provided to the State education agency would be used by the State agency for vocational education for employment-based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction. These funds would go to vocational education facilities, comprehensive high schools, and area vocational schools in accordance with procedures established by the State agency for vocational education. Ten percent of the thirty-five percent would be reserved for use in correctional institutions in providing employment-based programs and instructional materials in new and emerging technologies, including computer learning and instruction.

HIGHER EDUCATION PROGRAMS

Thirty-five percent of the State's share of the funds provided under this Act would go to the State agency for higher education for programs of teacher training and re-training, foreign language instruction, and new and emerging technology training.

Teacher training and retraining programs

Fifty percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education for programs involving:

(1) teacher training in mathematics, science, and computer learning and instruction;

(2) re-training of teachers from other disciplines to teach mathematics, science, and computer technology;

(3) inservice training for teachers of mathematics, science, and computer technology to upgrade and improve their skills.

These programs would be available only to individuals who would be teaching at the elementary and secondary level.

Employment-based programs

Thirty-five percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education, including community and junior colleges, for employment-based programs, together with instructional materials and equipment, in new and emerging technologies, including computer learning and instruction and basic engineering.

Foreign language instruction

Fifteen percent of the funds provided to the State agency for higher education would be used to make grants to institutions of higher education for foreign language instruction.

AUTHORIZATION

$400 million a year for Fiscal 1984, 1985, and 1986.

Legislation also carries requirement that Federal funds be used to supplement and not supplant state funds

LOAN ASSISTANCE TO INDIVIDUALS ENTERING THE TEACHING PROFESSION

A companion bill would provide for cancellation of a portion of a National Direct Student Loan for individuals entering the teaching profession in mathematics, science, or computer learning and instruction. Fifteen percent of the total loan could be cancelled each year, but for no more than five years or seventy-five percent of the total loan. In return, in order to be eligible for the loan cancellation provision, a teacher would have to remain in the teaching profession for at least five consecutive years.

By Mr. CHAFEE (for himself, Mr. HATFIELD, Mr. STAFFORD, Mr. BAUCUS, Mr. COHEN, Mr. DANFORTH, Mr. GORTON, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. MATHIAS, Mr. MOYNIHAN, Mr. RANDOLPH, Mr. RIEGLE, Mr. WEICKER, and Mrs. KASSEBAUM):

S.J. Res. 253. Joint resolution to assure that regulations governing the special supplemental food program for women, infants, and children (WIC) enhance the health status of participants in the program; to the Committee on Agriculture, Nutrition, and Forestry.

HEALTH STATUS OF PARTICIPANTS IN THE WIC PROGRAM

Mr. CHAFEE. Mr. President, today I am introducing a joint resolution to protect one of the most effective Federal programs available. The women, infants, and children (WIC) nutrition program is a preventative health program that provides nutritional food to over 2.2 million people. In addition, WIC provides nutrition education for people who desperately need it. The program is federally funded and carried out according to provisions of the Child Nutrition Act passed by Congress in 1966 and amended in 1972 and 1978.

WIC was the child of nutrition researchers and pediatricians who felt strongly that the combination of prenatal medical care and nutritional help would make a difference in the health of both mothers and babies.

Many pregnant women, infants, and young children are in danger of suffering poor physical and mental health because they eat poorly and have inadequate health care. WIC is designed to help such persons by directly improving what they eat and the way in which they eat. The program provides supplemental foods including milk, eggs, juice, cheese, dried beans, and peas, cereal, and infant formula, and nutrition counseling to eligible participants who have certain income limitations and show evidence of special physical need. The program provides this extra help during critical times of growth and development in order to prevent the occurrence of health problems and improve eating habits.

Families of lower income persons are particularly vulnerable to a poor diet. In Rhode Island alone, an estimated 32,000 women, infants, and children meet Federal income guidelines for WIC. It has been demonstrated that an adequate diet can be correlated with a higher incidence of low birth weight, a higher rate of fetal and newborn mortality, and a higher rate of developmental disabilities.

For a number of years, the infant mortality rate in the United States has been a subject of some consternation; by this measure, which is frequently used to determine the level of civilization of a society, the United States has consistently ranked well below Western Europe and some of

the other industrialized countries. The problem is concentrated among the poor and among minorities, and babies of young mothers who are badly nourished are in special danger.

I ask unanimous consent that at this point the infant mortality rate table prepared by USDA's Food and Nutrition Service be printed into the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, AS FOLLOWS:

Infant Mortality Rates

Country:	[1] *Rate*
Iceland	8
Japan	9
Sweden	9
Denmark	10
Finland	10
Norway	10
Netherlands	11
Switzerland	11
Spain	11
Singapore	12
France	13
Canada	14
Hong Kong	14
Belgium	14
United Kingdom	14
Malta	14
German Democratic Republic	14
Australia	14
United States	15
Ireland	15

[1] Rate—Deaths under 12 months of age per 1,000 live births.

Source: World's Children Data Sheet of the Population Reference Bureau, Inc., 1979.

Mr. CHAFEE. Mr. President, participation in WIC has decreased infant mortality rates; the incidence of low birth weight and resultant deafness, blindness, and retardation; and the incidence of anemia. For this reason, WIC saves money. A Harvard University School of Public Health study shows that each $1 spent on the prenatal component of WIC saves $3 in future hospital costs for the treatment of low birth weight babies and babies with anemia.

Every effort must be made to insure WIC's continuing success. However, I fear the move to save Federal dollars and to give States greater flexibility in deciding what foods should be provided through the program may, in the eyes of some, offer justification for weakening the WIC program.

In July, the Department of Agriculture suggested that the WIC diet be altered to allow greater sugar content and less iron content; to permit flavored milk and to drop peanut butter and beans from the food list. These changes would be contrary to the program's objectives. This is a supplemental food package for low-income, pregnant and postpartum women, and for infants and children who face malnutrition. The Department's proposals conflict with the positive nutrition education practices of the program. Chocolate milk is more expensive than nonflavored milk. The cereals that would be allowed because of their sugar content are also more expensive per serving than those with lower sugar content. These changes would increase the cost of the program while jeopardizing the basic nutrition of the participants.

There has been no significant change in the scientific literature concerning good nutrition that would warrant tampering with the present food package—particularly for changes that would be detrimental to the beneficiaries of the WIC program.

Remembering the ketchup and relish fiasco of last year, Congress must act to insure that such proposals do not take effect. I believe that Congress must send a message to the administration, and that the Senate should put itself on record objecting to any changes in the WIC program that are not beneficial to the women, infants, and children who participate in it.

My joint resolution requires: One, that changes in WIC regulations must maintain or enhance the nutritional benefits of the program; two, that the Secretary of Agriculture must provide proof that any proposed alterations will benefit the recipients; and three, that Congress will be presented with those findings prior to regulation changes being proposed in the Federal Register.

I urge the Senate to act immediately on this joint resolution, thereby insuring the integrity of the WIC program.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD at this time.

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

S.J. RES. 253

Whereas pregnant, postpartum, and breast-feeding women, infants, and young children from families with inadequate income face a special risk to their physical and mental health because of inadequate nutrition and health care;

Whereas the special supplemental food program for women, infants, and children (WIC) was established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) to prevent the occurrence of health problems in, and improve the health status of, such women, infants, and children;

Whereas numerous evaluations of the WIC program by the Department of Agriculture, the Center for Disease Control, State public health departments, and university schools of medicine and public health have demonstrated that participation in the WIC program has decreased infant mortality rates, the incidence of low birth-weight babies and resultant deafness, blindness, and retardation, and the incidence of anemia;

Whereas cost benefit analysis has shown that the WIC program is one of the most effective programs initiated by the Federal Government;

Whereas the Secretary of Agriculture promulgated regulations on November 12, 1980, relating to supplemental foods made available under the WIC program, which are consistent with the goals of such program, but has delayed the implementation of such regulations until December 31, 1982; and

Whereas the Secretary of Agriculture is considering modification of regulations of the Department of Agriculture governing the WIC program which would be detrimental to the health status of WIC participants: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may not promulgate any regulation governing the special supplemental food program (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) which would not maintain or enhance the nutritional integrity of the supplemental foods made available under such program.

SEC. 2. (a) The Secretary of Agriculture may not, after September 23, 1982, modify any regulation governing the special supplemental food program (WIC) referred to in the first section unless the Secretary makes a finding that the modification will be beneficial to the health status of participants in such program.

(b) A finding made pursuant to subsection (a), and any supporting documentation, shall be submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least fourteen days prior to the publication in the Federal Register of the proposed modification.

SEC. 3. The Secretary of Agriculture shall implement the regulations promulgated on November 12, 1980, relating to supplemental foods made available under the special supplemental food program (WIC) referred to in the first section, no later than December 31, 1982.

● Mr. MOYNIHAN. Mr. President, I am pleased to join my distinguished colleague from Rhode Island in introducing this joint resolution. The special supplemental food program for women, infants and children (WIC) provides food for 2.2. million women and children who are nutritionally at risk. The program furnishes a nutritional diet for pregnant, postpartum, and breast-feeding women, infants and young children whose health, because of an inadequately nutritious diet and inadequate income, is endangered. Several studies have been done on the WIC program and all have shown its remarkable effect. The studies indicated that pregnant women participating in WIC give birth to higher birthweight infants, improve their blood iron levels, and increase their consumption of most vitamins and minerals. Children in the program have shown increases in blood iron levels and improved growth rates. A study done at Harvard University showed that the decreased incidence of low birthweight infants due to participation in the WIC program by their mothers had a benefit to cost ratio of 3 to 1. This results from the decreased health care costs associated with disabilities or illnesses related to low birthweight. The WIC program has thus been shown to be extraordinarily beneficial. This resolution provides that the Department of Agriculture, which oversees the program, must

maintain the nutritional standards of the program.

In the Reagan administration's fiscal year 1983 budget proposal, the WIC program was to be folded into the maternal and child health block grant program with an overall reduction in funding of 25 percent. In July the Department considered altering the WIC prescribed diet, allowing the use of less nutritious and more expensive foods. Later in the summer the Department refused to reallocate unspent funds—as it is mandated by Congress to do periodically—in order to accommodate States that had larger than expected caseloads. This money was to be taken from States that had lower than expected caseloads and therefore a surplus of funds. The Department wanted to wait until after the end of the fiscal year. But this lethargy was threatening the well-being of thousands of women and children. In New York State alone up to 20,000 women and children were faced with an abrupt end to their benefits and a terrible endangerment to their health. The Department was finally sued by the Food Research and Action Center on behalf of several WIC recipients from New York and Georgia. Judge Charles R. Richey, in deciding the case against the Department of Agriculture, said that the delay of the distribution of funds until after the end of the fiscal year was unconscionable. "Meanwhile," he asked, "what's going to happen to these poor infants who are the beneficiaries of this program? What's going to happen to these poor innocent children—women, infants and children? * * * I don't think a Secretary of Agriculture ought to have any excuse. Let him wash the blood off his own hands and get it done." The Department has now reallocated the funds. With these events in mind, I strongly urge the passage of this joint resolution, as a step toward insuring the health and nutrition of women, infants, and children across the country.●

Mr. BAUCUS. Mr. President, I am pleased to cosponsor a joint resolution drafted by Senator CHAFEE to protect the special supplemental food program for women, infants, and children (WIC). This program is undoubtedly one of the most enlightened, effective, appropriate, and best designed Federal programs that exists. Following the guidelines and provisions of the Child Nutrition Act of 1966, amended in 1972 and 1978, WIC is a very successful and special program which deserves our focus and protection. WIC is a federally funded program that provides prescription food packages (including iron fortified infant formula, milk, eggs, cheese, cereal, and juice), essential nutrition education, and access to health care to over 2.2 million pregnant and nursing mothers, infants, and children who are low income and medically certified to be at nutritional risk.

Mr. President, the beneficiaries of this program are not just the low income and nutritionally at risk mothers and children who receive nutritional care from WIC. WIC also serves the taxpayers of this Nation. It is truly a cost-effective measure toward preventative health. A recent study at the Harvard School of Public Health indicates that each dollar spent on pregnant women in the WIC program results in an estimated $3 savings in hospitalization costs for low birth weight infants (LBW). WIC has always been a program with low administrative budgets compared to the amount of food, medical services, and nutritional education that is given to its deserving participants. It is a program void of waste and fraud. Moreover, WIC is a program that is preventative in nature and ultimately saves tax dollars by preventing future health care costs.

In a series of articles and studies presented to me by Minkie Medora, RD, of the Missoula Community Hospital in Missoula, Mont., I was able to glean some of the following information which I would like to share with my colleagues.

Quoting from the Heritage Foundation, they state that "There is evidence that the WIC program does in fact improve nutrition." I would like to cite some of the evidence which supports this understated contention. Citing a February 1981 study prepared by the Office of Policy, Planning and Evaluation Food and Nutrition Service of USDA, the "Executive Summary" says that "a substantial body of evidence is now accumulating to indicate that the WIC program is having a positive and significant impact on program participants in the United States."

Data from several large scale studies discussed in this same report indicates that participation in the WIC program is associated with a positive and significant increase in birth weight in infants. More importantly, Mr. President, this has resulted in a reduction in the incidence of low birth weight infants being born to women who participate in WIC.

Currently, low birth weight is the eighth leading cause of death in the United States. A low birth weight infant is 20 times more likely to die than a normal weight infant. A January 1981 study indicates that the WIC program results not only in fewer low birth weight infants but significantly decreases infant mortality.

Reports from several States will serve to inform the Senate of the vast effectiveness of the special supplemental food program for women, infants, and children:

Overall, WIC women had a predicted incidence of low birth weight of 3.4 percent, compared to 14.6 percent for non-WIC women.

In my home State of Montana, the infant mortality rate on seven Indian reservations declined from 31.5 per thousand in 1972 to 16.6 in 1975, following the introduction of the supplemental feeding program for pregnant women, infants, and children.

A Yale University Medical School study of WIC participants in Danbury, Conn., shows WIC significantly reducing the fetal death rate in the high risk, low-income population. The same study showed that WIC participants caught up with non-WIC participants in all measures of health.

Arizona WIC participants recorded an 81-percent reduction in anemia, an 82-percent reduction in underweight births, and a 62-percent improvement in stature. In Michigan 30 percent of the women were anemic before WIC, but only 6 percent after participation. Anemia in Oregon was reduced from 13 percent to 1 percent in participatory children.

In Tacoma, Wash., a study shows children who received WIC help are now being treated for fewer illnesses.

Finally, a study in Fresno, Calif., shows that the WIC program encourages pregnant women to increase prenatal health care visits.

In short, Mr. President, this timely and appropriate nutrition service is truly a cost-effective measure toward preventative health. Citing again the USDA study, titled "Evaluation of the Effectiveness of WIC," I quote:

> The WIC program is not only associated with fewer low birth weight babies and therefore less deaths, but the program also results in significant medical savings. By decreasing the number of low birth weight babies, the WIC program concurrently reduces hospital costs. In addition, low birth weight infants have a higher prevalance of developmental abnormalities such as blindness and deafness. The WIC program appears even more cost-effective if these longer term costs are considered.

The USDA executive summary goes on to say:

> Data from these studies all show trends in the same direction: neonatal outcome, hematological status and growth are improved as a result of participation in WIC. The WIC program appears to be making a substantial contribution to dealing with problems of inadequate nutritional status among "at risk" women and children—two especially vulnerable groups in the United States.

Mr. President, the Reagan administration's proposal to fold WIC into the maternal and child health block grant will spell disaster for WIC. The administration proposes to effectively terminate WIC by adding it to the maternal and child health block grant. The funding available for the target participants of WIC would be reduced by 30 percent. Literally hundreds of thousands of women, infants, and children would face the peril of nutritional deficiencies. WIC is already under

funded—it is presently unable to reach all who need it—tens of thousands are on waiting lists or are turned away because there are now insufficient funds available.

To block grant WIC will short-change mothers and children. Less food and less health care for mothers and children will effectively reduce the chances low-income and already risky children have to grow up healthy. Mr. President, anything less than a full commitment to WIC is quite simply dangerously detrimental to mothers and children, especially high risk pregnant mothers.

Every effort must be made to insure WIC's continuing and growing success. We are far too enlightened in the areas of nutrition, and prenatal and post-partum health care to take a step backward. We simply cannot let such a progressive and far-reaching program such as this suffer the effects of budgetary slashing. We have come too far in the support of low-income and at risk mothers and children to turn our backs by reducing the great benefits and integrity of the WIC program.

I urge enlightened support of this resolution and this most valuable, most effective, and most necessary program for mothers, infants, and children.

By Mr. JEPSEN (for himself, Mr. EAGLETON, Mr. DANFORTH, Mr. RIEGLE, Mr. DURENBERGER, Mr. CHAFEE, Mr. KENNEDY, and Mr. HOLLINGS):

S.J. Res. 254. Joint resolution designating September 22, 1983, as "American Business Women's Day"; to the Committee on the Judiciary.

AMERICAN BUSINESS WOMEN'S DAY

Mr. JEPSEN. Mr. President, on September 10, I was joined by Senator EAGLETON in introducing a joint resolution designating September 22, 1982, as "American Business Women's Day." Because of the backlog of legislation pending on the Senate Calendar, we were unable to deal with this issue previously. Senator EAGLETON and I still believe that Congress should pay tribute to the important contributions women make in the business world: Therefore, we are reintroducing our resolution but making September 22, 1983, the effective date.

Although women have always been working and contributing to the family business or the family farm, and in many cases have been the mainstay of the operation, their work has often been taken for granted or overlooked altogether.

At the beginning of this century, approximately 1 out of every 5 women was in the labor force. By 1940, this ratio had increased to 1 in 4. But then, significant changes began to occur in the work force.

By the end of World War II, 35 percent of the working population of America was female. Many women, once in the work force, found that they enjoyed it and decided to stay. In many ways, the business world was unprepared for this change. During this period, there were a number of viable business organizations, but very few dedicated to preparing and promoting women for business. But, Mr. President, like so many things in this country, necessity became the mother of invention and new groups began to spring up. One group, the American Business Women's Association (ABWA) stands out in my mind.

The ABWA began as the dream of some businessmen and businesswomen working in the Kansas City area. Through the efforts of a small group of people, the American Business Women's Association took shape and became a reality. From its original 50 charter members, the association has grown to the point where it now boasts a membership of over 100,000 in its 2,000 chapters located in all 50 States, the District of Columbia, and Puerto Rico.

Through its scholarship program, business seminars, and member workshops, the ABWA has exhibited an unrelenting commitment to the future of American business and women. We in Congress should mirror that commitment.

Whether we are talking about millions of unsalaried homemakers or those women working 18-hour days on the farm, the many women who spend long hours behind a desk, or those who sit on the boards of major corporations, they are all making an important contribution to the betterment of this country. I would hope, Mr. President, that once this resolution is adopted, my colleagues will take the opportunity to thank the businesswomen in their States for the contributions they have made to the success of American business.

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1775

At the request of Mr. THURMOND, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1775, a bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, to provide a remedy against the United States with respect to constitutional torts, and for other purposes.

S. 2225

At the request of Mr. BAUCUS, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2357

At the request of Mr. LUGAR, the names of the Senator from Illinois (Mr. PERCY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 2357, a bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities.

S. 2784

At the request of Mr. DECONCINI, the name of the Senator from Louisiana (Mr. LONG) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2828

At the request of Mr. DODD, the name of the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 2828, a bill to authorize a demonstration program to provide for housing for older Americans.

S. 2856

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of S. 2856, a bill to amend the Sexual Exploitation of Children Act of 1977.

S. 2901

At the request of Mr. DOLE, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Texas (Mr. BENTSEN), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2901, a bill to establish a National Commission on Neurofibromatosis.

S. 2902

At the request of Mr. THURMOND, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 2909

At the request of Mr. DODD, the names of the Senator from California (Mr. HAYAKAWA) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2909, a bill to authorize financial assistance for a continuing education program to secondary school science and mathematics teachers designed to increase their competency and to assist them to qualify for certification, and for other purposes.

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S. 2919

At the request of Mr. LUGAR, the names of the Senator from Washington (Mr. JACKSON), the Senator from Michigan (Mr. LEVIN), the Senator from Minnesota (Mr. BOSCHWITZ), and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 2919, a bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes.

S. 2926

At the request of Mr. MOYNIHAN, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2926, a bill to create a National Commission on the Rebuilding of America which will conduct an inventory of our Nation's water and sewer systems, bridges, highways, and roads; develop a 10-year investment plan to rebuild the public improvements essential to economic development; make recommendations concerning changes in Federal laws and regulations that influence the pattern of Federal expenditures for public improvements, and for other purposes.

SENATE JOINT RESOLUTION 199

At the request of Mr. THURMOND, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 199, a joint resolution proposing an amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Tennessee (Mr. BAKER) and the Senator from Colorado (Mr. HART) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. LEVIN, the names of the Senator from North Carolina (Mr. EAST), the Senator from Utah (Mr. HATCH), the Senator from Florida (Mrs. HAWKINS), the Senator from North Carolina (Mr. HELMS), and the Senator from Idaho (Mr. McCLURE) were added as cosponsors of Senate Concurrent Resolution 46, a concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

SENATE CONCURRENT RESOLUTION 123

At the request of Mr. HART, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Concurrent Resolution 123, a concurrent resolution expressing the sense of the Congress with respect to a means test for the medicare program.

SENATE RESOLUTION 472

At the request of Mr. MOYNIHAN, the names of the Senator from Nevada (Mr. CANNON), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of Senate Resolution 472, a resolution to preserve and protect medicare benefits.

SENATE RESOLUTION 478

At the request of Mr. DODD, the names of the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

SENATE RESOLUTION 479—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 479

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 861, a bill to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes. H.R. 861, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983.

The waiver of section 402(a) of such Act is necessary to permit Congressional consideration of H.R. 861. Such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The likelihood that the Congress would act on this legislative initiative was generally recognized with passage of the measure by the House of Representatives on May 11, 1982. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization; enactment of H.R. 861 is not expected to interfere with or delay the appropriations process.

AMENDMENTS SUBMITTED FOR PRINTING

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

AMENDMENT NO. 3617

(Ordered to be printed and to lie on the table.)

Mr. BRADY submitted an amendment intended to be proposed by him to the bill (S. 2879) to provide flexibility to the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the Federal Supervisory Agencies to deal with financially distressed depository insitutions, to enhance the competitiveness of depository institutions, to expand the range of services provided by such institutions, to protect depositors and creditors of such institutions, and for other purposes.

WATER RESOURCE DEVELOPMENT

AMENDMENT NO. 3618

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill (S. 2443) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT UTILIZATION ACT

AMENDMENT NO. 3619

(Ordered to be printed and to lie on the table.)

Mr. NUNN (for himself and Mr. MATTINGLY) submitted an amendment intended to be proposed by them to the bill (S. 1657) entitled the "Uniform Science and Technology Research and Development Utilization Act.

● Mr. NUNN. Mr. President, for myself and Mr. MATTINGLY, I am introducing an amendment to S. 1657, the Uniform Science and Technology Research and Development Utilization Act. The purpose of this amendment is to provide statutory authority for NASA to require the reporting of innovations made in the course of, or under any contract of the administration.

For the past 16 years, the University of Georgia has been under contract to NASA to operate a computer library called Cosmic, the Computer Software Management and Information Center.

Cosmic maintains one of the Nation's largest software libraries of engineering analysis and general purpose computer programs. It provides, at reasonable cost, programs developed by or under contract with NASA and other agencies, that is, DOD and the Nuclear Regulatory Commission, that may have commercial application in the private sector. Cosmic serves as a clearinghouse where software can be transferred from Government agencies which fund or assist in its preparation to industrial or other nongovernmental users.

Under current law (section 305(b)) of the Space Act (42 U.S.C. 2457(b)) NASA is given specific authority to provide for the reporting of information "concerning any discovery, improvement, or innovation which may be made in the performance of any such work." NASA uses this authority to require, among other things, that computer software programs devel-

oped with NASA funds be reported to NASA and made available to the university's Cosmic library.

Under the legislation reported by the Senate Commerce Committee (S. 1657, the Uniform Science and Technology Research and Development Utilization Act) section 305(b) of the Space Act is repealed. See section 401 (6)(B) of S. 1657, as amended and reported. The committee's bill attempts to establish a uniform treatment of the ownership of title to innovations and inventions derived in part from Federal funds. Under current law, except where small businesses, universities, and certain nonprofit institutions are given the right of first refusal to title, the Federal Government generally retains that title.

Without authority for NASA to require some form of reporting of computer software—regardless of whether they are characterized as new technology—the very data sources from which the Cosmic library is derived would be eliminated. The result would be the lack of any systematic way to collect, analyze, and disseminate for commercial purposes the information gained from the initial computer software development.

The amendments which I am introducing today will provide NASA with the authority necessary for NASA to fully continue the Cosmic program, consistent with the Senate Commerce Committee's policy recommendations.

Mr. President, I appreciate Senator SCHMITT's cooperation in finding a legislative solution to this important matter.●

NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will hold a meeting on Wednesday, September 29, 1982, at 9 a.m., in room S-205, the Capitol, to consider pending legislative and administrative business, including proposals for suite configurations and the selection process for suites in the Senate office buildings.

For further information regarding this meeting, please call Don Carrington of the Rules Committee Staff on extension 40895.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Senate Agriculture Committee will hold hearings on the nominations of Fowler C. West to be a Commissioner of the Commodity Futures Trading Commission and Orville G. Bentley to be Assistant Secretary of Agriculture for Science and Education. The hearings are scheduled on Wednesday, September 29, at 10 a.m. in room 324, Russell Building.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-0014.

AUTHORITY FOR COMMITTEES TO MEET

Mr. BAKER. Mr. President, these two requests have been cleared by the distinguished minority leader.

SUBCOMMITTEE ON AGENCY ADMINISTRATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agency Administration, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, September 23, at 11:15 to mark up S. 1775, the Federal Tort Claims Act.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 23, at 10 a.m., to hold an oversight hearing on the use of false identification to penetrate Federal programs.

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

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism of the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 23, at 2 p.m., to hold a hearing on S. 2255, antiterrorism and foreign missionary act.

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

ADDITIONAL STATEMENTS

GOVERNMENT AND THE ECONOMY

● Mr. GRASSLEY. Mr. President, this month the Senate Budget Committee is holding hearings on budget reform, and the Finance Committee hearings on tax reform. What transpires in these hearings is pivotal; it will help guide the future direction of budget policy, and influence the public's understanding of the nature of our budgetary problems.

Whatever emerges from these hearings, at the very least there should be a clearer understanding of the effects of Government policy on the economy, and of how economic factors interrelate. Do large deficits cause interest rates to rise? Will raising taxes help to lower interest rates? What is the correlation between output and deficits? How does monetary policy interplay with tax and budget policy?

Mr. President, I ask to have printed in the RECORD an article written by William Allen, president of the International Institute for Economic Research, which appeared in the September 3 issue of the Washington Times. This article puts into perspective many of those questions about Government and the economy. There is a lesson in this article for all of us in Congress, and I urge my colleagues to heed it.

The article follows:

[From the Washington Times, Sept. 3, 1982]

A LOOK AT THE HISTORY OF DEFICITS

(By William Allen)

The conventional federal budget is an accountant's nightmare—or joke. It does not include all government transactions; it does not distinguish current expenses from capital investments; it does not well indicate the thrust of fiscal policy and its impact. Yet, it is commonly presumed that it should be balanced.

In some circles, balance per se is now the critical objective, with little regard for either the level at which the budget is balanced or the manner (increased taxation or reduced expenditure) in which a deficit is eliminated. If deficits strike such terror and take precedence over all other policy considerations, it is appropriate to ask how they actually have been persistently generated and how they supposedly have been so pernicious.

The latest—if not last—federal surplus was in 1969. Let us examine the record of the succeeding dozen years.

The budgetary problem has not been starvation of government by a niggardly community. Receipts increased at an annual rate of over 10 percent—while the price level was rising at less than 7 percent—and were much more than three times as great in 1981 as in 1969. But we have seen that rapidly increasing receipts will not surely balance the budget or even reduce the deficit. In that period, government outlays went up even faster than receipts, at an annual rate over 11 percent.

This massive increase in the budget and its deficit stemmed, more specifically, from non-defense spending. Exploding at an annual rate of 14 percent, it was almost five times larger in 1981 than in 1969. Non-defense spending is now equal to 17 percent of gross national product; only nine years ago, it was 13 percent. Reducing the proportion back to just the 1973 level would reduce government spending by enough to balance the budget.

What is the damage done by deficits? It is alleged that they raise interest rates and reduce growth. But that has not in fact been the case.

The deficit and interest rates have tended strongly to move in opposite directions. From 1968 to '69 for example, the deficit fell $28 billion—but both long-term and short-term interest rates greatly increased. From 1974 to '76 the annual deficit soared by $62 billion—but long-term rates fell slightly, and short-term rates fell greatly. In only four of the last dozen years have the deficit and long-term rates moved in the same direction, and only once did the deficit and short-term rates move together.

Meanwhile, real output of the economy moved with the ratio of the deficit to GNP: as the deficit became bigger or smaller relative to GNP, production rose or fell. Both theory and experience inform us that it is not required that we have bigger deficits—

or more government spending or higher inflation—in order to hype the economy into producing more, but obviously increasing output is not precluded by big and growing deficits.

Interest rates are casually correlated, not with deficits, but with the price level; and the rate of inflation, in turn, is a function of the rate of money growth. From 1969 through 1981, the amount of money increased 115 percent, and the price level, in close step, went up 123 percent. The rate of money expansion has been erratically falling for nearly two years, the inflation rate has been greatly reduced, and interest rates are far below the peaks at the end of 1980. Those who are concerned with inflation and interest rates should direct their primary policy interest to the management of the money supply, not to the budget deficit.

But suppose budget deficits deserved all their bad press. The usual contention is that, since deficits require government to borrow, government will crowd-out private borrowers from credit markets. But the private sector can be crowded-out of investment and other expenditures by high taxes, which tend to reduce cash flow to cash trickle, as well as by high interest rates, which inhibit borrowing. Internal financing is at least as legitimate as external financing; private saving is at least as attractive as private debt. Reducing a government deficit by reducing government spending avoids increased crowding-out through the tax channel; increasing taxes to pay for continued government spending increases absorption of private cash and fails to alleviate government absorption of the community's real resources.

Some have panicked in the face of large prospective deficits. In frenetic attempts to reduce the deficits, they have ascribed absurd and exaggerated beneficial effects and curative powers to financing more of the bloated government spending by taxation. They are willing to sacrifice long-run economic programs of rationality for highly uncertain acquisition of thoroughly amorphous short-term benefits. It may be too much to ask politicians to get economic analysis straight. But surely they could get a lackey to look up the historical numbers. If they can't understand the world, they could at least observe some of its behavior.●

THREAT OF NUCLEAR WAR

● Mr. LEVIN. Mr. President, I recently received a copy of a letter sent to President Reagan by 41 college presidents and board chairmen. The letter was initiated by my friend, Charles Price, retired board chairman at my alma mater, Swarthmore, along with Father Theodore Hesburgh and Clark Kerr.

Their letter to the President speaks eloquently of the need to control nuclear arms and of the desirability of restoring a sense of faith in the future to the people of the world. These leading educators write realistically about the prospects for such a change in international orientation. They recognize it will not be easy or quick. But they believe it can happen. And I believe we here in the Congress of the United States can help make it happen.

Mr. President, I ask that the text of the letter appear in the RECORD.

The letter follows:

SEPTEMBER 15, 1982.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As individuals deeply involved in, and committed to, American colleges and universities, we, the undersigned, express our concern over the growing threat of nuclear war. Our concerns have been not only for the current operation of our institutions, but insofar as our institutions are custodians of the knowledge and wisdom on which civilizations are based, we feel a larger responsibility as well. As educators charged with conveying vision and values to our students and in our society, we are concerned not only with possible destruction of our institutions and those who comprise them, but with the catastrophe that major nuclear war would represent to the American people and to all civilizations.

We believe it is urgently important to begin now to seek seriously and vigorously for alternatives which would be more effective in protecting and promoting the interests, welfare and security of the American people. Many distinguished Americans have suggested ways to turn the world away from the nuclear threat. We do not propose a specific remedy but do believe one is possible and that a major investment in planning, negotiating and cooperating to establish civilized, effective and morally-acceptable alternatives to nuclear war as an arbiter of international disputes is urgently needed. We support your proposals to reduce nuclear arsenals as a useful step in this direction.

We suggest that clear objectives of the planning and negotiations that are needed should include:

Verifiable balanced reduction, toward ultimate elimination, of the nuclear weapons of mass destruction which now threaten all civilizations;

Ending the degradation of moral principles and of respect for human life resulting from massive nuclear armaments which are poised to kill hundreds of millions of people, and inescapably to poison the globe; and

Offering hope of a world of increasing cooperation, in which our energies could be devoted more constructively to justice, welfare, and realization of the human potential with which we are all endowed.

In urging such an effort, we do not propose innocent or unbalanced trust of the Soviet Union. An effective alternative to the threat of mutual assured destruction, with escalating probability of major nuclear war, will probably require new and/or strengthened international institutions and processes which the United States, the Soviet Union, and other governments and peoples will find more trustworthy than the hope that no nation with nuclear weapons will "pull the trigger."

American initiative, enterprise, ingenuity and energy have achieved many goals deemed impossible by others. Realistic and imaginative planning to prevent massive nuclear war is the most compelling goal of our times, requiring the most urgent commitment of energy and talent. We believe that spending a fraction of what we now spend on armaments to work toward that goal would be the wisest way of planning for the future. In the interest of the American people and of human civilizations we consider it imperative to establish now such major American policy alternatives and the determined leadership to achieve them.

Sincerely,

Derek C. Bok (Harvard), Amey A. DeFriez‡ (Radcliffe), Cleveland L. Dennard (Atlanta), James F. English (Trinity), Emmet B. Fields (Vanderbilt), Christopher C. Fordham III (North Carolina), Luther H. Foster* (Tuskegee), Theodore Friend (Swarthmore), Ellen V. Futter (Barnard), Robert C. Good (Denison), Paul E. Gray (Massachusetts Institute of Technology), F. Sheldon Hackney (Pennsylvania), Robert D. H. Harvey‡ (Johns Hopkins), Matina S. Horner (Radcliffe), Howard W. Johnson‡ (Massachusetts Institute of Technology), Kenneth H. Keller (Minnesota), John G. Kemeny* (Dartmouth), Elizabeth T. Kennan (Mount Holyoke), Nannerl O. Keohane (Wellesley), Richard W. Lyman* (Stanford), Jean Mayer (Tufts), David T. McLaughlin (Dartmouth), Mary Patterson McPherson (Bryn Mawr), Martin Meyerson* (Pennsylvania), Steven Muller (Johns Hopkins), James L. Powell (Oberlin), W. C. H. Prentice* (Wheaton), Jonathan E. Rhoads, M.D.‡* (Haverford), David S. Saxon (California), Robert B. Stevens (Haverford), Donald M. Stewart (Spelman), Howard R. Swearer (Brown), Barbara Auchincloss Thacher‡ (Bryn Mawr), John S. Toll (Maryland), Barbara S. Uehling (Missouri), Clifton R. Wharton, Jr. (State University of New York), Jerome B. Wiesner* (Massachusetts Institute of Technology), Harris Wofford* (Bryn Mawr), Rev. Theodore Hesburgh (Notre Dame), Clark Kerr* (California), Charles C. Price‡* (Swarthmore).

(Endorsements are personal; institutions are indicated for purposes of identification only. Others are presidents or the equivalent.)

*Presidents or chairmen who are retired.
‡Board chairmen.●

WHAT ITALY EXPECTS OF THE UNITED STATES

● Mr. DOLE. Mr. President, I ask to have printed in the RECORD the remarks by Ambassador Petrignani of Italy, in recognition of the work of the National Italian-American Foundation and in honor of the alliance and close friendship between the American people and the people of Italy.

The remarks follow:

REMARKS BY H. E. RINALDO PETRIGNANI

WHAT ITALY EXPECTS OF THE UNITED STATES

I would like to open my remarks by conveying the warmest greetings of the Italian Government to all the participants in the Annual Conference of the N.I.A.F. for 1982.

I am indeed particularly pleased to see so many prominent personalities participating in the different panels now underway. This distinguished membership is a clear demonstration of the N.I.A.F.'s ability to gain the attention of an ever-growing number of American citizens of Italian descent and to help the Italian American community to gain an increasing political and social importance among the forces actively involved in the progress of the United States.

The theme on which I have been invited to speak "What Italy Expects of the United

States" is undoubtedly a sensitive and challenging one. Indeed, the very fact that an issue of this nature was proposed by the organizers of this conference shows how much the relations between our two countries are a two-way relationship, which thrives on a mutual give and take in the creation of a solid partnership.

In fact, from whom could one be entitled to expect something if not from a friend?

And friendship is the first and foremost factor in the Italo-American relationship. I would say that friendship for the United States, as seen from our perspective, is something more than a matter of policy, although all democratic governments which have succeeded themselves in Italy in the last 35 years have constantly adhered to the American friendship as a fundamental tenent of our foreign policy; it is a spontaneous attitude, which is shared by the great majority of the political forces represented in the Italian Parliament; it is a genuine feeling, which has widespread, deep, strong roots in the great masses of the Italian people, irrespective of political affiliation and doctrine; perhaps even more than that, it is a general aspect of the life of contemporary Italy. Since 1946, when at the Peace Conference in Paris Secretary Byrnes—he and he alone—got up and shook De Gasperi's hand after our Prime Minister had pronounced his impassioned speech in defense of Italy in the cold silence of the audience, Italy has always found a friend, a helping hand, a partner in the United States of America. The Italians have not forgotten this, as they have not forgotten that twice in this century American boys have come to the rescue of liberty and democracy, which were threatened in Europe.

Political ideals, common interests, natural affinities—that kind of vitalism which permeates so characteristically both American and Italian life—bind us together. The Alliance binds us together. But I am convinced that there is also something else. There is another important factor—there is you. You Americans of Italian descent who constitute such a strong irresistible human bond between our two counties. Who amongst you does not have family, interest, connections, business in Italy? By the millions, these ties extend their ramifications in all walks of life in both countries and form a marvelous web of friendship which projects itself from the private into the public sector. As you, the Italian American Community, or more simply, Americans of Italian ancestry, become more and more an important and essential part of this splendid society and gain influence, weight and prestige, you bring deeper and deeper into the image of America something of your Italian heritage, of your Italian faces. Through you and thanks to you, there is a part of America which reminds us of Italy, not "Little Italy", just Italy, a part of American which is familiar to us, which looks like us.

What do we expect from the United States? To ask a foreign envoy such a question almost means to invite him to come up with a ready-made shopping list and read out from it. I will do nothing of the sort; I will rather confine myself to a few essential points.

First, we expect understanding for what contemporary Italy really is today. We would like to see a better, and we think, a truer image of Italy projected in this country. As all of you are aware, there is still the traditional remnant of an image of Italy made up of old cliches, which does not reflect the reality of today nor does justice to it. We need your help to have this image corrected.

In fact, a growing attention has been devoted in recent years to some flamboyant aspects of Italian life: creativity and excellence in the arts, in the world of fashion and design, the taste for beauty, the Italian way of life, which are all aspects linked to our individualism, to the history of our culture and of our cities. At the opposite end of the spectrum, attention has been focused on political factionalism, on the Mafia, on terrorism, on the earthquakes. But no comparable attention has been devoted to the progress achieved by Italy in the last 35 years as a modern nation and society. And this is precisely the aspect which we would like to see reflected, with your help, in the new image of Italy in the American press and public opinion.

Of course, we have our share of the problems which all the industrial democracies in the world today are afflicted by, plus some of our own, which in a certain way—but this is no excuse for not coming to grips with them and doing our best to solve them—are also the legacy of our history: a still recent unification process, an initially weak economic development, social fragmentation, long-lasting historic cleavages between North and South, between the cities and the countryside, to mention just a few.

But the awareness of our own difficulties should not hide the fact, neither in our own eyes nor in those of our friends, that within the consistent framework of her internal democratic system, Italy has undergone in the post-war period a tremendous process of modernization, as few other developed countries have undergone in such a short time.

From a predominantly agricultural society, which Italy still was at the beginning of the fifties, she has become today one of the great industrial democracies of the world: the sixth largest industrial democracy, the seventh largest economy. With a G.N.P. of 394 billion dollars, equivalent to 6.480 dollars per capita (according to the latest report of the World Bank), we are today not far behind the economy of Great Britain, in spite of an almost total lack of oil and raw materials and entirely dependent, as we are, on a "processing economy." Some of the Italian industries have gained a leading position in Europe and are responding with creativity and success to the tremendous challenges of the economic recession. We also have reached brilliant positions in several fields of advanced technology, as shown by our participation in joint ventures with American companies. The tertiary sector of the Italian economy is expanding fast, as that of other major countries entering into the post-industrial age, which is another sign of progress.

I can only limit myself to a very summary sketch. But let me stress that the economic transformation has entailed some dramatic changes in many aspects of our society. Millions of people moved from the South to the North and from countryside to the cities; the crust of old traditions was broken; the patterns of social behavior have changed, as also the role of the Church in Italian society. The Middle class has expanded. A new Italian society has emerged, more affluent, more open, more free.

The modernization of the economy has made the way of life of the Italians much closer to the standards of any other major industrialized democracy. And this, of course, has had its profound bearing also on the political life of the country. In spite of the frequent government crises, which unfortunately weaken the authority of the Executive and spread the impression of political instability (an impression which proves itself wrong if you look at the behavior of the Italian electorate), I would say that a much broader national consensus has developed in Italy over the last years. Because of a change of attitudes of the political parties and in particular the progressive modernization and democratization of the Italian Left, I think that a new cohesion, heretofore unknown, has strengthened the fabric of Italian society. The distances between social classes have diminished, the disputes between political parties have become less ideological and more pragmatic. Democracy has spread. Also the successful, although not yet concluded struggle against terrorism, carried out in full respect of the principles of democracy and individual freedom, even at the cost of more sacrifices, has helped, in a way, to unify the Italians.

I repeat, many serious problems remain unsolved, I may add that the progresses of the last thirty years have been uneven and that by themselves they have contributed to highlighting many inadequacies of the public structures. The very rapidity of the transformation has contributed to generating new social tensions, which also help to explain the phenomenon of terrorism. But on the whole, the changes have been enormously positive.

In essence, we have made a new Italy. The diversity, the pluralism, the richness of the cities which are still the center of Italian life, the humanity of the individual, the quest for the classical sense of beauty and harmony, all represent the continuity of a tradition of centuries. But the country has grown, has renewed itself profoundly.

We would like to see all of this reflected in the American perception of Italian reality. Italy, also because of its unique combination of old and new, is a complicated scene. But we think it deserves more attention, also beneath the superficial appearances.

With your help, we will be able to make her real face more familiar and more understandable to the American public. The effort is worthwhile, because it concerns an industrial democracy of 56 million people, which is your friend, your partner, your ally.

There still is something else that Italy expects besides understanding—and that is to be always acknowledged and treated by you—the American people, the American Government—as a major ally: one of the four major European partners of the United States. Let me briefly amplify this point.

The awareness of the contribution given by Italy to Western civilization, the meaning of Italian national unification in political, economic and demographic terms, the key strategic position of Italy in Europe and in the Mediterranean, the perception we have of our national identity; all these factors bring the Italians to consider their own country, despite some historic weaknesses not yet entirely overcome, to be one of the great nationalities in Europe, belonging to the same category as that of Great Britain, France, the Federal Republic of Germany, even if we don't have the same nuclear weapons status that Great Britain and France have or the same economic potential that Germany has. Such a perception of our national identity is at the very heart of the Italian determination to play a role in international affairs.

I may be allowed to point out in this connection that for more than thirty years Italian foreign policy has remained firmly com-

mitted to the pro-western choices made after the war. Allegiance to the Western World is the expression in the field of international relations of those same forces and traditions which brought about our deep commitment to freedom and democracy in the domestic field, means for us European unity, Atlantic solidarity and friendship for the United States. In more recent years, as Italy has grown and has become more solid internally, her interest and determination to assume larger responsibility in the Western Alliance with a view toward contributing to international stability and peace, have also increased. Let me mention, as an example, the rapid and substantial growth of Italian aid to developing nations (4.5 billion dollars allocated for the period 1981/1983). Let me point out, above all, the determination and the steadfastness with which Italy took her own share of burdens for the restoration of a military balance in Europe: her decisive contribution to the double track NATO decision of 1979 for the modernization of theatre nuclear forces in Europe, the beginning of construction work on the cruise missile base at Comiso, the active role played by Italy within the Alliance to maintain unity and solidarity in the post-Poland phase, her participation in the Multinational Force for the Sinai and now in the Multinational Force for Lebanon.

As I said, the political and psychological foundation on which this attitude is based is our perception of the Italian national identity as a nation having the capability and the responsibility to play an important role in international affairs. We can help in Europe and in the world for the preservation of security and the promotion of peace and economic development. We can act together with you as your friend and your partner in the Alliance and strive together for the attainment of our common goals. But we ask from our friends a compatible attitude.

The exclusion of Italy from any restricted groups which might be formed in one way or the other within the West for the discussion of matters of common concern would be neither understood nor accepted by us. Any such discrimination would be taken in Italy as a rejection by our friends of our own identity as a nation and would set in motion centrifugal forces which would kill the spirit of Italian participation in the Alliance. We count therefore on our friends to see that this will never happen, as President Reagan promised to President Pertini when they met at the White House last March.

We expect to see our position as one of your major European partners fully recognized; to see our relationship enriched and strengthened by regular consultations and by frequent contacts and exchange of visits, even at the highest level, so that an even closer personal and direct rapport may be established between our political leaders to our mutual advantage.

Furthermore, we expect to see our trade relations not only resist the temporary difficulties of the adverse economic situation but also grow much above their present level. We want to buy more from you—coal is just an example of how much our imports from the United States can grow. But in order to do that, we have to be able to sell more. And to this effect I am convinced that the Italo-American community could do a precious work to make more and more widely known in this country the quality of Italian products.

We expect to see also our cultural relations grow much above their present level. The influence of American culture in Italy, as in most other European countries, is immense. I don't pretend that the Italian culture should have an equal impact in America, but certainly it could have a greater impact than it now has. There is today a greater demand on your part of Italian culture, which could grow even larger. You must tell us in which direction we have to move in order to satisfy this demand. The diffusion of the knowledge of the Italian language would seem to me to be a precious channel.

We expect to see this spendid community of Americans of Italian descent become always more prosperous and numerous and to see other relatives, families join it from Italy. In this connection, may I be allowed to mention briefly a heartfelt hope of ours that some restrictive provisions of legislation presently under consideration should be modified by Congress, so as to safeguard that principle of family reunion which stems from our heritage.

I realize that I have spoken much too long. But you will grant that your question "What Italy expects of the United States" is one that an Italian envoy seldom has the opportunity to answer.

In concluding, I would like to summarize my thoughts by saying that what we would like to see is something like a "privileged relationship" growing between the United States and Italy. Maybe my aspiration is ambitious, but I firmly believe that the ties and common interests between us are so strong that we can aim high. This kind of relationship would play a helfpul role also in the context of the relations between the European Ten and the United States which presently are going through a phase of considerable difficulties. The Italian Government has always maintained that the bond between Europe and the United States must be an irrevocable one. We believe, therefore, that whatever the differences and the difficulties may be they must be equitably resolved through consultations in our common interest, in the interest of the preservation of Western unity which is in turn an essential condition for the preservation of the equilibrium between East and West, and therefore of stability and peace in Europe and in the World. In this spirit, Italy remains firmly committed to European unification, Atlantic solidarity and friendship with the United States: that friendship which was symbolized by the kiss given by President Pertini to the American Flag at the White House last March.●

DISCRIMINATION THROUGH THE TAX CODE

● Mr. HART. Mr. President, on January 8 of this year, the Acting Solicitor General of the U.S. Department of Justice filed a memorandum informing the Supreme Court that the Department of the Treasury intended to reverse a decade-long policy of denying tax breaks to private schools that practice racial segregation.

This IRS policy on tax exemptions, opposed by the Reagan administration, is not only justified by basic national policies condemning racial discrimination in education—public and private, but also by a series of Supreme Court decisions unequivocally concluding that Government support of segregated schools is unconstitutional. It is most unfortunate that the Reagan Justice Department abandoned this just and sensible policy—and, instead, proposed to sanction discrimination through the Tax Code.

Since the Government withdrew from cases currently before the Supreme Court on this issue, the Court invited Mr. William Coleman, prominent lawyer, distinguished former public official, and long time advocate for civil rights, to argue the case as an amicus curiae.

The brief Mr. Coleman put forth on behalf of the argument that tax exempt status not be given schools that discriminate on the basis of race, is a persuasive, enlightening document. In the brief, he points out why giving tax breaks to schools that discriminate is clearly unconstitutional. Given the administration's efforts at obfuscating the issue, I hope my colleagues will read the brief to better understand the underlying facts in this controversy.

In the summary of his argument, Mr. Coleman writes:

> The Government states that it fully subscribes to the "strong national policy in this country against racial discrimination in any and all forms." But this is an empty assurance if schools that admittedly discriminate on the basis of race are nonetheless afforded significant tax benefits. Surely, the constitutional and congressional command to eradicate the badges and incidents of slavery demands more.

Mr. President, I ask that the preliminary statement and summary of argument from Mr. Coleman's brief be inserted in the RECORD.

The material follows:

[In the Supreme Court of the United States, October Term, 1982]

(Nos. 81-1 and 81-3)

GOLDSBORO CHRISTIAN SCHOOLS, INC., PETITIONER *v.* UNITED STATES OF AMERICA, RESPONDENT

BOB JONES UNIVERSITY, PETITIONER *v.* UNITED STATES OF AMERICA, RESPONDENT

On Writs of *Certiorari* to the United States Court of Appeals for the Fourth Circuit:

Brief of *Amicus Curiae* in support of the judgments below:

PRELIMINARY STATEMENT OF AMICUS CURIAE

The Internal Revenue Service has ruled that §§ 501(c)(3) and 170 of the Internal Revenue Code do not authorize recognition of tax benefits for racially discriminatory private schools. Rev. Rul. 71-447, 1971-2 C.B. 230; Rev. Rul. 75-231, 1975-1 C.B. 158. The Government has defended this well-established position successfully in the Court of Appeals and previously before this Court, but the present Administration, without any change in the Code, now contends that the IRS position is unauthorized. This Court therefore appointed an *amicus curiae* to defend the judgments below. A summary of the pertinent facts leading to that development is appropriate to explain the interest that *amicus curiae* has thereby come to represent.

These cases stem from the denial of tax-exempt status under § 501(c)(3) of the Inter-

nal Revenue Code of 1954 (the "Code"), 26 U.S.C. § 501(c)(3), to petitioners Goldsboro Christian Schools, Inc. ("Goldsboro") and Bob Jones University ("Bob Jones") on the basis of their racially discriminatory practices. Goldsboro denies admission to all black applicants. J.A. 9. Bob Jones denied admission to all blacks prior to 1971 and to all unmarried blacks until 1975, the last tax year in question. J.A. A32-33. It continues to deny admission to persons who marry or date outside their race and to enforce other racially discriminatory rules. J.A. A197, A208.

Petitioners instituted separate tax refund actions.[1] The district court in *Goldsboro* ruled for the Government and entered judgment against Goldsboro in the amount of $116,190.99 for federal social security ("FICA") and unemployment ("FUTA") taxes due. J.A. 115; 436 F. Supp. 1314 (E.D.N.C. 1977). The district court in *Bob Jones* held that the school was entitled to an exemption, relieving Bob Jones of the Government's FICA and FUTA claims totalling approximately $490,000 for the years 1970 through 1975. 468 F. Supp. 890 (D.S.C. 1978).[2] The district court concluded that Bob Jones' "primary purpose is religious," but also found that it "serves educational purposes." 468 F. Supp. at 895. Bob Jones' present assertion that it is exclusively a religious organization, B.J. Br. at i, is not supported by the record, which shows that the school provides accredited, secular instruction at all grade levels, offering courses in mathematics, science, fine arts, history, education, literature, business administration and other subjects. See, *e.g.*, J.A. A63, A127-28, A227; U.S. Br. at 2-3. Goldsboro concedes that it is an educational organization. G. Br. at i, 8.

On appeal, the United States Court of Appeals for the Fourth Circuit held in both cases that § 501(c)(3) does not authorize the granting of tax-exempt status to racially discriminatory schools, regardless of the religious basis for their practices, and that denial of this tax benefit does not infringe upon First Amendment religious freedoms. *Bob Jones*, 639 F.2d 147 (4th Cir. 1980); *Goldsboro*, No. 80-1473 (4th Cir. Feb. 24, 1981) (per curiam) (Pet. App. 1a-3a).

Petitioners sought review here. In response, the Government argued that the Fourth Circuit decisions were correct but urged the Court to grant the petitions for *certiorari* in order to "dispel the uncertainty surrounding the propriety of the Service's ruling position and foster greater compliance on the part of the affected institutions." U.S. Br., Sept. 9, 1981, at 17. The petitions were granted on October 13, 1981.

Just before its brief on the merits was due, however, the Administration reversed its position.[3] On January 8, 1982, the Acting Solicitor General filed a memorandum informing the Court that the Department of the Treasury intended to initiate the steps necessary to revoke Rev. Rul. 71.447 and other pertinent rulings and to recognize § 501(c)(3) exemptions for petitioners, suggeting that these cases therefore were moot. But legal constraints made implementation of the Administration's changed position impossible. In an action against the Government in 1971, a three-judge court had rendered a declaratory judgment that racially discriminatory private schools are ineligible for tax-exempt status under § 501(c)(3) and as donees of deductible charitable contributions under § 170. *Green v. Connally*, 330 F. Supp. 1150, 1179 (D.D.C. 1971). Upon appeal by intervening white parents and school children, this Court unanimously affirmed without opinion. *Coit v. Green*, 404 U.S. 997 (1971). This declaratory judgment remains in effect and is binding on the Government.[4] Moreover, in a case involving similar issues, the Court of Appeals for the District of Columbia Circuit, on February 18, 1982, enjoined the Government from granting § 501(c)(3) tax-exempt status to any school that discriminates on the basis of race. *Wright v. Regan*, No. 80-1124, Order (per curiam).

Because of the injunction in *Wright* the United States informed the Court that it would not revoke the revenue rulings and would not grant petitioners tax-exempt status. It therefore withdrew its request that these cases be dismissed as moot and instead suggested appointment of an *amicus curiae* to support the judgments below in favor of the United States.[5] The United States filed its brief on the merits on March 3, 1982, urging reversal of the Fourth Circuit's decisions. The Court, by its order of April 19, 1982, invited William T. Coleman, Jr. "to brief and argue these cases, as *amicus curiae*, in support of the judgments below." 50 U.S.L.W. 3837. Accordingly, *amicus curiae* files this brief in support of the position heretofore taken in these and other proceedings by the United States.

SUMMARY OF ARGUMENT

Since *Brown v. Board of Education*, 347 U.S. 483 (1954), the actions of Congress and the decisions of this Court have expressed a fundamental national policy, derived from the Fifth, Thirteenth and Fourteenth Amendments, condemning racial discrimination in education—public and private. This Court has consistently and unequivocally ruled that government support of segregated schools "through any arrangement, management, funds, or property" is unconstitutional. *Cooper v. Aaron*, 358 U.S. 1, 19 (1958); see *Norwood v. Harrison*, 413 U.S. 455 (1973). In *Runyon v. McCrary*, 427 U.S. 160 (1976), the Court squarely held that Section 1 of Civil Rights Act of 1866, 42 U.S.C. § 1981, prohibits racially discriminatory practices in private schools.

Recognizing the development of this fundamental national policy, the IRS, in light of the statutory requirements governing charitable organizations, decided in 1970 that private schools practicing racial discrimination are not entitled to tax-exempt status under § 501(c)(3) of the Code or eligible for deductible charitable contributions under § 170. See J.S. A235-239; Rev. Rul. 71-447, 1971-2 C.B. 230. Contrary to the Government's suggestion, this decision was not a reversal of previous IRS practice. Rather, given the evolution of constitutional and statutory law after *Brown*, this ruling followed inevitably from the long-standing position of the IRS that §§ 501(c)(3) and 170 provide tax benefits only for organizations charitable in the common law sense. A three-judge court upheld the denial of tax-exempt status to racially discriminatory private schools in *Green v. Connally*, 330 F. Supp. 1150 (D.D.C. 1971). This Court's affirmance of the three-judge court ruling, *Coit v. Green*, 404 U.S. 997 (1971), was a correct decision on the merits, and nothing has occurred since which suggests any basis for overruling it. On the contrary, congressional actions since 1970 have expressly ratified the IRS ruling upheld in *Green*.

The Commissioner's obligation under the Code to deny tax-exempt status to private schools that discriminate on the basis of race is supported by several distinct but mutually reinforcing statutory grounds:

1. As the IRS ruled, § 501(c)(3) was intended to provide tax-exempt status only for charitable organizations in the common law sense. It is a basic precept of the common law that the special privileges afforded to charitable organizations are based upon their contribution to the general welfare, and thus that an organization is not entitled to charitable status if its purposes are inconsistent with law or fundamental public policy. *Ould v. Washington Hospital for Foundlings*, 95 U.S. 303, 311 (1877); *Perin v. Carey*, 24 How. 465, 501 (1861). The language and legislative history of § 501(c)(3) reflect congressional intent to adopt this principle. The courts and the IRS have been

[1] If successful, petitioners would pay no federal income, social security or unemployment taxes, would be eligible to receive charitable contributions deductible from the donor's gross income or estate, and would be included in the IRS publication of organizations having advance assurance of eligibility for charitable contributions.

[2] In a separate action filed following the district court's decision, Bob Jones obtained preliminary injunctive relief compelling the IRS to restore its tax-exempt status under § 501(c)(3) and to provide advance assurance of the deductibility of contributions under § 170 by including Bob Jones in the Cumulative List of Organizations published by the IRS. J.A. A3; Pet. App. A72-86. This order was stayed by the Fourth Circuit pending appeal. J.A. A17; Pet. App. A97-99. The appeal was later consolidated with the Government's appeal from the district court's original decision. J.A. A8, and is before this Court on Bob Jones' petition for *certiorari*.

[3] For the circumstances surrounding the change in position, see *Administration's Change in Federal Policy Regarding the Tax Status of Racially Discriminatory Private Schools: Hearing Before the House Comm. on Ways and Means*, 97th Cong., 2d Sess. (1982) *("1982 Hearing")*.

[4] 28 U.S.C. § 2201 ("declaration shall have the force and effect of a final judgment"); see *Roe v. Wade*, 410 U.S. 113, 166 (1973); Restatement (Second) of Judgments § 33 (1982).

[5] The Government and petitioners are correct in concluding that these cases are not moot. The Government has not granted exemptions under § 501(c)(3) to petitioners, nor refunded the taxes paid, nor revoked the revenue rulings which deny such exemptions. The Administration's changed view, therefore, does not moot the litigation. *North Haven Bd. of Educ. v. Bell*, 102 S. Ct. 1912, 1918 n.12 (1982). Even if the Government were to implement its changed position the case would be moot. See *United States v. W.T. Grant Co.*, 345 U.S. 629, 632-33 (1953); *Green v. Connally*, 330 F. Supp. at 1170.

The cases come to this Court on records developed through the adversary process. They are still adversarial in the operative sense because the Administration has not granted the relief petitioners seek, and cannot do so while the declaratory judgment in *Green* and the injunction in *Wright* are in effect. There remains, therefore, a justiciable controversy. *Kentucky v. Indiana*, 281 U.S. 163, 173 (1930); see *GTE Sylvania, Inc. v. Consumers Union*, 445 U.S. 375, 382-83 (1980); cf. *United States v. Lovett*, 328 U.S. 303, 306 (1946). The Court has properly invited an *amicus curiae* to present the opposing view which had been successfully argued by the Government in the Court below. *Cheng Fan Kwok v. INS*, 392 U.S. 206, 210 n.9 (1968); see also *Granville-Smith v. Granville-Smith*, 349 U.S. 1 (1955); *Brown v. Hartlage*, 102 S. Ct. 1523, 1526 n.1 (1982). Finally, the Court could not accept the present Administration position, vacate the judgments below and order refund of the FICA and FUTA taxes paid by petitioners without conducting an independent review of the merits. See *Rosengart v. Laird*, 405 U.S. 908 (1972); *Richmond Television Corp. v. United States*, 382 U.S. (1965); *Weber v. United States*, 119 F.2d 932 (9th Cir. 1941), *aff'd per curiam by an equally divided Court*, 315 U.S. 787 (1942); *id.* at 935 (dissenting opinion); see also *Bruton v. United States*, 391 U.S. 123, 125-26 (1968); *Young v. United States*, 315 U.S. 257, 258-59 (1942).

guided accordingly and have long relied upon common law concepts of charity to determine the applicability of § 501(c)(3) to "educational" organizations. This longstanding construction of § 501(c)(3) was adopted by Congress when it re-enacted the Code in 1954 and again in enacting the Tax Reform Act of 1969.

In this light, there is no merit to the argument of the Government and petitioners that the term "educational" in § 501(c)(3) must be construed as entirely independent of the law of charity solely because the terms of the statutory expression "religious, charitable . . . or educational purposes" are separated by the disjunctive. This argument tears the term "educational" from its statuory context and historic origins in the common law, ignores the statute's legislative history, and disregards its long-standing judicial and administrative construction. Even in strictly grammatical terms, the more reasonable interpretation of the statute is that its specific terms provide descriptive examples of organizations that are charitable in the generic sense. See 26 U.S.C. § 170 (c)(2) (defining "charitable contributions" as contributions to "religious, charitable, . . . or educational" organizations). In interpreting other Code provisions listing terms sharing a common denominator but separated by the word "or," the Court has often held that a single word in the list—here "educational"—"does not stand alone, but gathers meaning from the words around it." *Jarecki v. G.D. Searle & Co.*, 367 U.S. 303, 307 (1961); see *National Muffler Dealers Association v. United States*, 440 U.S. 472 (1979).

2. Recognition of tax-exempt status for racially discriminatory private schools, moreover, would contravene the established judicial presumption against congressional intent to allow tax benefits where they would frustrate a sharply defined governmental policy. *Tank Truck Rentals, Inc. v. Commissioner*, 356 U.S. 30, 33-35 (1958). Here, recognition of tax exemption would be utterly inconsistent with federal law and fundamental national policy condemning racial discrimination in public and private education, severely undermining the Court's mandate to desegregate the public schools as well as the constitutionally-based policy against government support for segregated private schools.

3. Congress has been fully aware of the IRS decision on this issue since the day if was made, and has repeatedly refused to alter the IRS ruling, even while amending § 501(c)(3) in other respects. Furthermore, in enacting § 501(i) in 1976, Congress expressly adopted the IRS's decision as "national policy." S. Rep. No. 1318, 94th Cong., 2d Sess. 8 (1976). Congress recognized that the court in *Green* had held that the existing language of § 501(c)(3) barred tax-exempt status for racially discriminatory schools and thus saw no need to adopt additional language to this effect. Instead, Congress extended this policy to private social clubs practicing racial discrimination, a positive legislative action plainly signaling approval of the IRS ruling on discriminatory schools. It is inconceivable that the Congress which mandated denial of tax-exempt status for discriminatory social clubs, including school fraternities, could have intended to permit discriminatory practices by the tax-exempt schools themselves. Congress reaffirmed its support for the IRS ruling in 1979 when it enacted the Dornan and Ashbrook Amendments to bar implementation of proposed new "affirmative action" requirements for private schools. A fair reading of these developments since 1970 can leave no reasonable doubt that Congress has ratified and approved the IRS policy in Rev. Ruls. 71-447 and 75-231. *Haig v. Agee*, 453 U.S. 280, 300-01 (1981); *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 381-82 (1969).

Indeed, if § 501(c)(3) were construed to permit tax exemptions for racially discriminatory schools, the provision would be unconstitutional under the Fifth Amendment. The Government has an affirmative constitutional duty to steer clear of providing significant aid to such schools, even in the absence of any purpose to further the schools' racially discriminatory practices. *Norwood v. Harrison*, 413 U.S. 455, 465 (1973).

For all these reasons, the IRS properly concluded that racially discriminatory private schools are not entitled to exempt status under § 501(c)(3). There is no question that both petitioners engage in racially discriminatory practices. While Bob Jones argues that it is entitled to exempt status under § 501(C)(3) as a "religious" organization, the record demonstrates that it is not a church or seminary engaged exclusively in religious activities, but rather a school providing accredited secular education at all levels.

Ultimately, petitioners argue that the First Amendment's protection of religious freedom requires that they be excepted from the rulings barring tax-exempt status for all other racially discriminatory private schools. But the right to free exercise of religion does not guarantee entitlement to tax-exempt status. Rev. Ruls. 71-447 and 75-231 do not restrict petitioners' right to hold or teach their religious beliefs, nor do these rulings prevent them from continuing their discriminatory practices without the benefit of government subsidy. If there is any burden on petitioners' free exercise here, it is far outweighed by the compelling governmental interest in eliminating all forms of official support for racial discrimination in education. *Norwood v. Harrison, supra.* If the Establishment Clause has any bearing here, it is to prohibit special tax preferences for religiously-motivated racial discrimination. To give favored tax treatment to racially discriminatory sectarian schools while denying tax benefits to private schools that claim no religious basis for their racially discriminatory practices would impermissibly entangle government with religion.

Since the United States does not support petitioners on their First Amendment claims, the principal issue here, as framed by the Government, is whether the Court should overrule *Coit v. Green* and the Commissioner's firmly established practice, ratified by Congress, of denying tax-exempt status to racially discriminatory schools. The Government states that it fully subscribes to "the strong national policy in this country against racial discrimination in any and all forms." U.S. Br. at 11. But this is an empty assurance if schools that admittedly discriminate on the basis of race are nonetheless afforded significant tax benefits. Surely the constitutional and congressional command to eradicate the badges and incidents of slavery demands more.●

SUPPLY-SIDE ECONOMICS AT WORK

● Mr. GRASSLEY. Mr. President, throughout the spring months of 1982, much was said about how economic recovery would be led by consumer spending and that the supply-side formula of recovery through increased savings was merely a myth.

Well, Mr. President, for the benefit of those who doubted, the marginal tax-rate reduction has had a very positive effect on the Nation's savings pool. Many had thought that the consumer would lead us out of the recession in the short run by simply spending most or all of the extra money received from the latest round of tax reduction and from the recent social security increase. But at least half of that money was saved, and a large amount went to paying off installment debt, a form of savings.

The savings rate for the month of July rose to 8.1 percent, which is 2.3 percent higher than the 1980 rate. The August rate is still above the 7-percent level. Each percentage point increase in the savings rate accounts for approximately $22 billion of new funds in the Nation's savings pool.

The pattern of rising personal savings is due to a fundamental change in the economy. The simple fact that inflation has subsided has changed the savings climate for the better. More people are saving because interest returns are high and because there is no pressure to consume in anticipation of higher prices.

If the rate of savings continues to stay high, we must regard the increase as a positive development in an otherwise bleak economy. We must also, then, expect that economic recovery will be slow.

Yet there is much good to be said, in this sense, for a slow recovery. A slow but steady recovery marked by a continued rise in savings is a more fundamentally sound recovery than one based on consumption. A savings-led recovery would naturally be a slow one, but it is based on increased productivity rather than on increased demand.

An informative article on the Nation's savings picture appeared in a recent issue of Business Week magazine. I ask that the article be printed in the RECORD so that my colleagues might better understand the savings situation in this country.

The article follows:

WHY SAVINGS MAY STAY HIGH

Americans are beginning to stash away more of their income. In July the personal savings rate jumpted to 8.1%, the highest level since late 1975. This could well signal a higher level of savings that will carry throughout the decade, say some economists. If they are right, the increase in savings would help finance the enormous federal deficits looming over the next few years, dampen interest rates, and spur capital investment.

The savings rate, to be sure, almost always rises in a recession as consumers tighten their belts for fear that they may lose their jobs. And to some extent the increase in savings reflects that phenomenon. What has

made some economists optimistic about savings is that the rate has been increasing even as the recession dragged on and deepened. "Savings do rise early in a recession, but if it continues long enough, people eventually have to draw them down to maintain their standard of living," notes Elizabeth Allison, an economist at Data Resources Inc. "What is interesting is that savings have been so strong in the face of the worst postwar recession."

Economists believe that several factors are making for a fundamentally higher level of savings. These are:

LOWER INFLATION

When inflation accelerates sharply, as it did in the late 1970s, people tend to spend more and save less in order to buy goods before prices rise even further. From 1977 to 1980, as inflation rose, the savings rate declined steadily, to 5.8% from 6.9% in 1976. With inflation now down substantially and expected to stay well below 10% for the next several years, that process will reverse, and people will save more of what they earn.

NEW INCENTIVES

The combination of lower marginal tax rates and tax-deferred savings instruments such as Individual Retirement Accounts are encouraging people to save more. "The IRA's and the lower marginal rates are increasing the real net rate of return to savers and are attracting new money," says Michael J. Boskin of Stanford University.

HIGH REAL INTEREST RATES

Although market interest rates have dropped sharply in recent weeks, real interest rates—market rates adjusted for inflation—remain high by historical standards. A high real rate not only dampens consumer borrowing but also gives the saver a better return. Real rates are expected to remain lofty even if market rates continue to decline.

DEMOGRAPHIC CHANGES

Evidence shows that people save more as they grow older. Now that the baby boom generation has been absorbed into the population and the average age of Americans will be growing steadily higher, some economists believe that this will boost the savings rate.

The higher savings rate will benefit the economy in the long run even though economists agree that the recovery would be far more robust if consumers were now spending more and saving less. The 10% cut in personal taxes any the increase in Social Security benefits in July have been especially disappointing to those awaiting a consumer-led economic upturn. Rather than spend it, consumers saved about half of the extra dollars in their July checks, according to Edward E. Yardeni, chief economist for E. F. Hutton & Co. And consumers used much of the extra money to pay off installment debt.

Says Boskin: "In the very short run it would have been more of a plus if the tax cut had gone into spending rather than savings. But the prospect of higher savings in the future will help finance the big government deficit."

At current income levels, each percentage point rise in the savings rate adds about $22 billion to the pool of funds available to finance the government deficit and business capital spending. So if the savings rate stays in the 8% range, up two full percentage points from the average rate of the last half of the 1970s, about $44 billion annually would be added to the savings pool. And if personal disposable incomes rise at an annual rate of 9% (7% inflation and 2% real growth) over the next three years, the increase in personal savings will add about $52 billion to total savings in 1985. That is more than half of the $90 billion government deficit that is projected for that year.

AN UNDERSTATED RATE?

And the outlook for savings may be even rosier. The amount of money that Americans are saving could be a lot higher than the government numbers show. The Bureau of Economic analysis computes the savings rate by taking the difference between what people earn and what people spend. But there is a huge amount of income, estimated at about $400 billion a year, earned off the books that never get recorded in the official government numbers (BW—Apr. 5). However, the government does a far better job in reporting the amount of money people spend than it does what they earn. Therefore, because the government under-records earnings relative to spending, the rate at which people are saving tends to be understated.

In July the government implicitly acknowledged that its estimates of the savings rate were too low. It raised the rate for the years 1977 to 1981 by an average of 0.6%. And for 1981, rather than showing a 5.3% rate, the rate was increased to 6.4%. But those revisions, as well as the current rates, may still fall woefully short of the true savings rate. Flow of funds data, developed by the Federal Reserve Board to show the supply and demand for funds in both the private and public sectors, indicates that the personal savings rate last year may have been as high as 9.4%.

SOMETHING MORE FUNDAMENTAL

Some economists dismiss the recent runup in savings as simply reflecting the depressed sales of autos, houses, and other durables as well as the temporary effects of the tax cut and the increase in Social Security benefits, and they argue that the rate will soon come tumbling down. Others disagree. "The jump in the July savings rate did reflect the tax cut and the increase in Social Security benefits, and that usually lasts only a few months," notes University of Michigan economist F. Thomas Juster. "But since the rate has been rising now for some months, it indicates that something more fundamental is at work. And that something is that the economy is going through a transition from relatively cheap borrowing. When that occurs people tend to save more, and the recent runup in savings might last for years." In Juster's view, high interest rates both discourage consumer borrowing and increase the incentive to save.

To other economists, the big incentives to save are coming from IRA's and the tax cuts. Already, IRA's seem to be attracting a lot of money. Mutual funds alone, for example, opened 700,000 new IRA accounts in the first three months of this year. Savings and loan associations report that deposits in IRA's stood at $16 billion in March, compared with $11 billion a year earlier. Many analysts are predicting that IRA's will grow to $25 billion this year.

"We haven't seen the big surge in IRA's yet," says Boskin. "They will be coming on as we get closer to tax time in order to take advantage of tax breaks." He expects the savings rate to dip slightly and then rebound sharply again as "people try to get into tax-free vehicles."

Like Boskin, Beryl W. Sprinkel, Treasury Under Secretary for monetary affairs, expects the savings rate to back down some from July as people begin to spend their tax-cut dollars. But he believes that the savings incentives put in place by the Reagan Administration will lead to a sustainably high rate of 7% to 8%. "I would expect on average that it is going to stay up," he says.●

HUMAN CAPITAL

● Mr. TSONGAS. Mr. President, the National League of Cities newspaper Nation's Cities recently reprinted a speech by National Alliance of Business president, William H. Kolberg, which I highly recommend to my colleagues.

Mr. Kolberg's thesis is that investments in human capital by this Nation are both inexpensive and economically rewarding. Furthermore, this investment strategy must be pursued if we are to succeed in the transition from the industrial age to the information age without inflicting serious damage on our people and our communities.

The speech is an intriguing and compelling outline of the problems and challenges which we must be prepared to tackle in order to deal not only with the problems of unemployment, but the long-term quality of our work force and work product.

Mr. President, I submit for the RECORD Mr. Kolberg's speech.

The speech follows:

[From Nation's Cities Weekly, Sept. 13, 1982]

EXCERPTS: THE INFORMATION REVOLUTION BECKONS NEW INVESTMENT IN OUR HUMAN CAPITAL

(The following is excerpted from a speech by William H. Kolberg, president of the National Alliance of Business, a nonprofit business group interested in stimulating jobs and training in the private sector. He spoke in June to 50 representatives of business, government, academia and organized labor who attended a conference at Oakland University in Rochester, Mich., on the effects of economic dislocation.)

Peter Drucker has observed that we live in an age of discontinuity, sharply different from all those yesterdays that comprise human history.

Thus, the process of displacement continues, but with major differences. Strange dreams are transformed into new ideas, which are converted into new technologies, which give birth to new industries, seemingly overnight.

The breathing space once granted to the obsolescent industry or craft has collapsed. There is a germ of sardonic truth in the Pentagon joke that, "If it works, it's obsolete."

Perhaps the greatest discontinuity of all is that for the first time in history the future will belong not to those whose hands are cunning in the creation of things, but to those whose minds are trained in the manipulation of ideas and symbols.

We are, as Jeremy Main has put it, "launched on the voyage from the industrial age to the information age." That journey is what has brought us here today: millions of industry jobs have vanished. At the same time, the information revolution will

be creating millions of new jobs, many of them involving more interesting work, better pay and higher status.

The problem is how to get from here to there without inflicting grievous psychological and economic wounds on the workers and communities affected by these changes. That means that almost everyone is drawn into the journey. We are all fellow-travelers in this vast new trek. And that most certainly includes the structurally unemployed.

If the only solution to skilled displacement is for those affected by it to climb down the skill ladder, there will be little room on the lower rungs for the hard-to-employ. There can result from that the most corrosive of all effects for a democratic society: a permanent underclass. It is an evil we must prevent.

The economically dislocated worker has underlined for us that what we are really concerned with is "human capital."

The fundamantal fact is that it is not only the employed workforce we must consider, and it is not only the unemployed we must consider. We must also concern ourselves with the quality of the workforce, the kind of workforce that we will require today and also tomorrow and throughout this and the next decade. In addition, we must concern ourselves with the human capital that, under current policies, is destined to be unrealized human capital—the millions who do not have the kinds of skills, even rudimentary skills, needed by an evermore skill-hungry economy.

One of the least expensive and most economically rewarding investments a nation can make is in the quality of its human capital. Such a human capital investment strategy is based on the proposition that the future belongs to those who do not content themselves with where the jobs have been, or even where the jobs are now, but where the jobs will be in the future, and then offering workers ways to retrain for, and secure, those jobs.

We learned a few days ago that the nation's highest unemployment rate was right here in Michigan, in Flint with its 23.2 percent jobless rate. Even if, as we all hope, the automobile industry were to make a swift turnaround in the next few months, the prospects for many unemployed auto workers are dim. This is due to the growing tendency to move from blue collar to iron collar workers, from human to machine.

Surely it makes sense to train for the kinds of opportunities this trend represents—to retrain those who have been dislocated, and also those currently working in clearly declining industries. And to train the structurally unemployed, as well.

The fact that the skill capacity of our human capital is deteriorating has implications far beyond the meaning to particular individuals who possess only obsolete skills, or no skills at all.

First, based on current demographic trends, as we grow older as a people, an unskilled, low-paid workforce simply will not be able to support the growing proportion of our population that is nonproductive. Before World War II, the ratio of workers to nonworkers was 9 to 1. Last year it was 3 to 1. And in just eight more years it will be 2 to 1. Older Americans and others not in the workforce can be assured of continued benefits even with a 2 to 1 ratio—but *only* if those two workers are in highly skilled, highly productive, high-return jobs.

Second, demographic data also show that there will be a sharp drop in the number of 15 to 24 year olds, and a similar decline in the growth of the 25-35 year age cohort. This means that we have a choice. We can absorb this shrinking number of job entrants at the lower end of the spectrum, the unskilled jobs, and see shortages in skilled labor, with all that means in terms of missed opportunities—or we can seize this opportunity to upgrade the workforce so that each individual's contribution is magnified manyfold through possession of the kinds of skills the new technologies require.

Third, economic as well as humane considerations argue for a reassessment of the manner in which we view unemployment insurance. It can be seen as compensation for lost income, as it is now, or it can be applied in more creative and appropriate ways, as it is in some few places in the country, to serve for retraining, job search, even travel to more fertile job areas.

Finally, there is the "prepared mind" principle. In commenting on the seemingly incredible discoveries of Louis Pasteur, his biographer attributed much to chance—but nothing to accident. Accidents can happen to anyone, he recognized, but beneficial chance favors the mind that is prepared. Unless we link prepared minds with proper skills, whole potential areas of domestic economic growth will remain untilled and untenanted simply because of an insufficient supply of workers.

I'd like to close by citing a quote attributed to Mark Bendick, in a recent Fortune magazine article: "The problems of dislocated workers," he said, "are more appropriately addressed if dislocation is seen less as a characteristic of an identifiable population of individuals than as a recurrent temporary condition in the career of the majority of workers. This approach accepts the rapid and increasing pace of change in the economy as an ongoing and increasingly universal fact of life."

In short, we are not dealing here with a temporary phenomenon, nor one amenable to quick and seemingly plausible solutions like fostering relocation. Workers—displaced by plant closings, product obsolescence, or foreign competition—are particularly vulnerable in that the skills and community commitments that were once proud assets have been transferred, for reasons beyond their control, often beyond their comprehension, into what Fortune calls "the disabilities of affluence."

We must recognize that the impact of the information revolution will be felt throughout the workforce, not just by the skilled. And we must design an approach that does not content itself with picking up the pieces after dislocation; it must instead seek to prevent dislocation by enabling communities and industries to identify the new opportunities that lie ahead and then to train for such opportunities.●

FFG-7'S—FRUGAL, FAST AND FURIOUS

● Mr. COHEN. Mr. President, attention is often focused on military programs and weapons systems which are encouraging cost overruns, delays, and/or failures in performing their missions.

One program, however, has come to be identified with cost efficiency, timeliness, and mission effectiveness. The FFG guided missile frigate has been delivered on or ahead of time and at or under cost. The lead shipyard, Bath Iron Works, which is, I might add, located in Maine, deserves a lot of credit for that.

The FFG also plays an important role in enhancing our Navy's capability. In this month's issue of Sea Power magazine, Capt. Walter Thomas, USN (retired) tells of the important role which the guided missile frigate fulfills.

Captain Thomas, who served as the Navy's senior research fellow at the National Defense University, describes the FFG's as "frugal, fast, and furious. In short, frigates of the FFG-7 class have been well-designed to carry out the priority tasks of sea control and escort duty in a worldwide antisubmarine warfare environment."

The article, "Fast and Furious," discusses the superb record of the FFG-7 and the contribution it makes to our Naval force. I submit for the RECORD and commend the article to the attention of my colleagues.

The article follows:

FAST AND FURIOUS

(By Walter "R." Thomas)

In the 1970s world of double-digit inflation, complex contract claims, and crucial cost overruns, one class of ships hove over the horizon to brighten an otherwise gloomy shipbuilding decade—the "FIGs."

The advent of the first of this class of guided missile frigates, USS Oliver Hazard Perry, FFG-7 (FIG Seven), was greeted with some concern by dedicated power projection advocates when U.S. Navy logisticians reminded them that, in the 1960s, a Defense Department argument for *many small ships* had been used as an excuse for not building *any large ships*. Thus the fear remained that a significant impetus for smaller ships would be misinterpreted as a retreat on capital ship programs.

The inclination to build "three of these" at the same cost as "one of those" was an analytic trap that the U.S. Navy did not want to enter again.

Another concern was that the guided missile frigate would not be able to fulfill the many jobs required of a modern warship. Yet, in the discrete definition of a mission, there was little reason for the new FFG to do everything—as long as it did some things well. Until someone can design a battleship that can launch three aircraft wings and submerge when attacked, tasks must probably remain specific.

Nevertheless, designing ships that only need to be assigned certain combat roles on the basis of potential threats is still a difficult professional problem. In the case of the guided missile frigate, U.S. Navy leaders addressed their task admirably with the FFG program. There need be no further proof than that the Soviets strive to duplicate almost every type of warship that the U.S. Navy develops. However, by the end of the Vietnam War, the U.S. Navy was losing the shipbuilding race as Admiral of the Fleet of the Soviet Union Sergei Georgiyevich Gorshkov was dramatically increasing the number of Soviet warships and had intensified his fleet's sea operations.

More important, in the period from 1970 to 1978, because of the Vietnam War, the U.S. Navy was depleted to an almost skeleton force of modern ships that could be dedicated exclusively to anti-submarine warfare and convoy tasks. These limited roles,

in view of the Soviet submarine threat, would become priority efforts to protect convoys in the event of a land war in Europe. There also was an increasing number of ocean zones to be covered as the United States became heavily committed to freedom of the seas and safe transit in and around the Indian Ocean, as well as in the Caribbean area, where insurgencies threatened the stability of southern neighbors.

During this same time frame there also were strong advocates on two, and sometimes three, sides of the issue concerning a new "force mix Navy." As with most theoretical models, none seemed correct.

FORCE MIX

There have always been internecine arguments on strategic versus general-purpose forces, deterrent versus projection capabilities, or high versus low (or even high-low) weapon systems. Force mix discussions are cerebral popcorn. They ignore the basic element of decisionmaking, which is to define the task first and then develop the weapons to accomplish it, preferably in quantity and at reasonable cost. The FFG program, possibly more than any other recent shipbuilding project, met these criteria. It has been one of the U.S. Navy's least controversial efforts.

The decision to build these guided missile frigates becomes even more supportable when one considers that the FFGs are being delivered on (or ahead of) time, and at (or under) cost. Credit has to be broadly distributed among the U.S. Navy's own leadership, the directors of both Bath Iron Works (lead shipyard) and Todd Shipyards (second-source yard), and not least of all the Congress and the President—for supporting the program financially.

Although the FFG is not a capital warship, however that term is defined in sea power language, it enhances the credibility of decisionmakers who have been previously criticized for not preparing adequately for the vagaries of conventional war.

Is the FFG part of the force mix? Not really. It is part of the more pragmatic "task mix." The FFG is a sorely needed weapon that has been developed and produced to accomplish certain necessary missions, and because of its availability in numbers it can accomplish them more readily than can other types of ships.

In sum, guided missile frigates can relieve capital ships in certain environments so that cruisers and carriers can do the tasks that capital ships do better, such as anti-air warfare and shore bombardment. The FFG can operate independently of battle groups in its own combat roles, or support simultaneous operations in company with major units. It seems, if the FFG is any mix at all, to be a "proper mix" for all contingencies.

THE FFG PROGRAM

Although the Oliver Hazard Perry (FFG-7) was commissioned in 1977, only six of her sister ships had joined her in the active fleet by the end of 1980, with 16 more expected to be commissioned by the end of 1982. Todd Shipyards joined Bath Iron Works as a builder of FFGs in 1977. Altogether, about 50 ships have now been ordered or authorized, with an additional eight planned for future (1984-1987) fiscal year programs.

Although slightly lighter (3,600 tons) than the Soviet Krivak-class guided missile frigate (4,000 tons), the FFG, like the Krivak, is designed to be a formidable ASW platform. Both ships have hull-mounted sonars, gas turbine engines, torpedo tubes, 76mm guns (different models), missiles, and helicopter platforms.

The FFG's two LM 2500 gas turbine engines, produced by General Electric, are efficient and responsive. It is expected that when the new Rankine cycle energy recovery (RACER) system is fully developed—to include a waste heat boiler in the exhaust system—even greater fuel efficiency will result. (The RACER system generates power in the waste heat boiler to run a propulsion turbine.)

The FFG's new LAMPS (light airborne multi-purpose system) Mk III ASW helicopters, SQR-19 "TACTAS" towed hydrophone sonar array, and 20mm Vulcan/Phalanx rapid-fire gun system will add considerably to the ship's combat effectiveness as those systems become available to augment the FFG-7's current missiles, guns, and torpedoes.

WHY THE FFG?

As the 1970s ended, the U.S. Navy had about 400 ships in the active fleet—fewer than at any other time since World War II, only about half as many as in 1964, and only two-thirds of the 600 ships that Admiral Thomas H. Moorer, USN (Ret.), has said is the "absolute minimum" the Navy needs. As a former Chief of Naval Operations, and later Chairman of the Joint Chiefs of Staff, Moorer had pressed persistently for a major shipbuilding program that would reverse the negative trends of the 1960s and 1970s and give the U.S. Navy what it needs to defend the nation with a reasonable degree of confidence.

Despite the efforts of Moorer and other Navy leaders, the five-year shipbuilding program suffered, year after year, from "graphic creep." As each ship budget came up for authorization, too many ships were transferred to the "out years" of the ever-new five-year program. Stated another way, as each new budget cycle started, ships were transferred down the graph to the non-budget years. Whatever admnistration was in power was always planning to build more ships, but seldom funding them.

Despite these difficulties, and with the Navy well aware of the tight monetary policies, it was during the late 1960s and early 1970s that the FFG, as well as many other U.S. Navy programs, progressed from the design state through various levels of the Defense Department and into the legislative cycle. Without that effort the Navy would not now be projecting today's program of almost 50 guided missile frigates in the U.S. fleet by 1985.

Are the guided missile frigates needed? The Soviets already have over thirty Krivak-class guided missile frigates operational, plus eight of the Kotlin class, twenty of the Kashin class, and eight Kanin-class guided missile destroyers. All of these Soviet ship classes are generally similar in weight, size, and capability to the U.S. FFGs.

Additionally, the new Soviet Sovremenny class of guided missile destroyer is much heavier (7,500 tons) and more sophisticated than any of the other Soviet ships just mentioned.

So it is not just that the Navy needs the FFGs. It also needs, very much—and soon—a follow-on ship to counter the frenetic Soviet shipbuilding program.

FORWARD PROJECTION

Since the U.S. Navy's highest priority is to defend the United States itself, the first logical question to ask is: Where should the outer defense ramparts be mounted? Even with all the U.S. Navy's FFGs, present and projected, the USSR has an advantage in surface combatants. To confront these Soviet warships at sea and to prosecute effective anti-submarine warfare away from U.S. shores, the USN's guided missile frigates must be able to operate in large numbers in distant waters. The determining factor is not whether the Navy has the skill or the will to deter aggression or confront conflict, but whether it has adequate numbers of ships to make the U.S. position credible.

Soviet dissident Vladimir Bukovsky stated that "unless the West makes it [the Soviet threat] priority No. 1 it will lose." Lose what? Specifically, the United States will lose the opportunity to prevent the Soviets from imposing their will on others, anywhere, any time!

The Soviet "will" is sometimes imposed subliminally—by "showing the flag," particularly in the Third World countries which control so large a share of the world's natural resources.

To present a counterpoise to the Soviet Navy's presence in large numbers in the Third World, the United States needs the FFGs to represent it in all oceans and most port cities of the free world. Other U.S. Navy ships could do the job just as easily—if there were enough other ships. But there aren't.

The U.S. Navy's formidable battle groups, with their aircraft carriers, cruisers, and destroyers, are already heavily committed, perhaps over-committed, so the use of guided missile frigates on independent duty is one way of providing valuable assets to confirm the steadfast U.S. commitment to freedom and democracy—for several reasons:

First, the FFGs are new, sleek, efficient, and increasingly available for detached operations. Second, they are an excellent example of U.S. technological capacity. Third, they are ships which can be built at a relatively reasonable cost in today's inflationary world, and their presence in foreign harbors might encourage other nations to buy them. Spain and Australia now are adding FFGs to their fleets, and U.S. and Australian crews already have worked together in FFG exercises on the U.S. West Coast. In short, the FFG's "forward projection" capability demonstrates, as little else can, the sincere interest that the United States has for sharing its technology and training with other free world nations.

THE NAVY'S NEEDS

Although the U.S. Navy will soon have about 80 frigates, including ships older than the Oliver Hazard Perry class, in its active inventory, it needs at least 100 frigates to meet long-range commitments. One option is to progress rapidly with the planned "FFGX" program so that the shipyards now building the FFG-7s can move on to FFGX construction. If 50 ships of the FFGX class could be commissioned, at the rate of five per year, from 1986 through 1995 the future frigate program would have a sound base.

Congress has been ready in the past to fund well-documented programs and well-designed ships. The experience of the shipyards and the success of the FFG program should be an incentive, therefore, for the U.S. Navy to step briskly down the budgetary path with the FFGX.

As now planned, the FFGX will be a strapping offspring of the parent FFG program, though not in the numbers needed. At about 8,500 tons the FFGX also will be a

credible challenge to the best of the USSR's new counterpart ships. It is projected to get the RACER engine conversion, Phalanx gun system, Tomahawk and Standard missiles, a new SQS 53 sonar, and the TACTAS towed hydrophone array.

THE FFG/FFGX FUTURE

The need to move ahead with a program of 100 frigates (FFGs and FFGXs combined) that can be widely deployed results from the fact that all nations today are inextricably tied either in bonds of friendship or chains of enmity. When any country tugs at these connections, the United States is usually affected in one way or another.

Although the stabilizing effect of a U.S. Navy ship may seem remote, the ready availability of a frigate in a contentious areas does permit the United States to respond rapidly and selectively to a tug of crisis. Additionally, even the modest presence of a frigate demonstrates the firm U.S. intent to disavow the pressures of Soviet hegemony.

There always are intangibles in any program. Are frigates versatile enough? Would funding a lesser member of larger ships be a more prudent way to increase U.S. Navy strength? Is the relative vulnerability of the smaller frigate a detriment to the survivability of battle groups? Can the frigate operate effectively in an independent mode?

There are no absolute answers to such questions. No ship is invulnerable, particularly in an age of electronic wizardry and nuclear threat. However, as a deterrent, as an ASW platform, as an escort, as an overseas presence, and as a representative of the United States abroad, the U.S. Navy's frigates will prove themselves valuable fleet assets—assets that on a cost-benefit basis may never again be duplicated as well—if they are built in quantity.

The guided missile frigates have other advantages when compared to larger U.S. Navy ships: They can be more modestly manned, with about 185 officers and men, are easily maneuvered, and more efficiently maintained and repaired (thanks to modular-design construction).

In short, frigates of the FFG-7 class have been well-designed to carry out the priority tasks of sea control and escort duty in a worldwide anti-submarine warfare environment. As programmed, their combat systems, fully integrated through the Navy Tactical Data Systems (NTDS), will provide computerized, real-time solutions across the threat spectrum.

Today's guided missile frigates give the U.S. Navy ships that are frugal, fast, and furious. They deserve an increase in numbers if they are to be fully effective as an integral part of the U.S. Navy's sea power force.●

CARRIER COMMANDER CALLS FOR MORE, SMALLER CARRIERS

● Mr. HART. Mr. President, I would like to bring to the attention of the Senate one of the most cogent articles I have seen on the aircraft carrier issue. The article I refer to is, "CVNs Forever! Forever?", by a retired U.S. Navy carrier commander, Capt. Gerald O'Rourke. It was published in the July issue of the Naval Institute Proceedings.

Commenting on the Navy's request for two additional nuclear powered aircraft carrier—CVN's—in this year's budget, Captain O'Rourke says:

The real issue with the two-at-a-time CVN initiative arises from the almost certain knowledge that the ships will suck up the lion's share of all naval funding for the foreseeable future, leaving next-to-nothing for research and development of new forms of naval surface ships, aircraft, submarines, satellites, and missiles that may be required. When viewed in this light, the bid for two new CVNs may be considered as highly presumptive. It summarizes, in succinct terms, that the Navy's answer to future needs in "CVNs Forever!"

It is this writer's opinion that "The CVN Forever" syndrome is a bankrupt naval policy which inexorably saddles this nation with an unwise and onerous mortgage of our maritime defense future.

Mr. President, I commend this highly thoughtful article to my colleagues, and I ask that it be printed in the RECORD.

The article follows:

CVN'S FOREVER! FOREVER?

(By Capt. Gerald O'Rourke, U.S. Navy, Retired)

The U.S. Navy has an active duty inventory of 14 large aircraft carriers of varying ages and capabilities. For two of these, the *Midway* (CV-41) and *Coral Sea* (CV-43), the sands of time are rapidly running out. Four others, the *Saratoga* (CV-60), *Forrestal* (CV-59), *Ranger* (CV-61), and *Independence* (CV-62), are stoutly resisting senility through massive overhauls. Five more, the *Kitty Hawk* (CV-63), *Constellation* (CV-64), *John F. Kennedy* (CV-67), *America* (CV-66), and *Enterprise* (CVN-65), are well into middle age. The youthful "prides of the fleet" are the *Nimitz* (CVN-68), *Dwight D. Eisenhower* (CVN-69), and *Carl Vinson* (CVN-70), with a fourth ship, the *Theodore Roosevelt* (CVN-71), abuilding at Newport News, Virginia.

Recently announced is a surprising Navy initiative for fiscal year 1983 funding to procure not one (as anticipated) but two additional *Nimitz*-class CVNs.

This request, regardless of its ultimate fate before an election-year Congress, has some very disturbing long-term implications for both the Navy and the nation.

Large aircraft carriers take upwards of seven years to build and fit out. Unless sunk in combat or scrapped in an economy wave, a CVN should be capable of steaming with the fleet for at least 30 years—possibly even for 40 to 50. Accordingly, the two fiscal year 1983 carriers should be active through the year 2020, possibly even to 2040. The costs involved in CVNs, as might be expected, are enormous by almost any yardstick. The 90,000-ton ships require a small fortune to build, another to operate, and many more to procure the three to four "suits" of aircraft they will operate over the years. The high level of the projected costs, however, is not at the heart of the issue. Any alternative to building the ships (short of unilateral disarmament) would likely cost as much or more in the long run.

The real issue with the two-at-a-time CVN initiative arises from the almost certain knowledge that the ships will suck up the lion's share of all naval funding for the foreseeable future, leaving next-to-nothing for research and development of new forms of naval surface ships, aircraft, submarines, satellites, and missiles that may be required. When viewed in this light, the bid for two new CVNs may be considered as highly presumptive. It sumarizes, in succinct terms, that the Navy's answer to future needs is "CVNs Forever!"

It is this writer's opinion that "The CVNs Forever" syndrome is a bankrupt naval policy which inexorably saddles this nation with an unwise and onerous mortgage of our maritime defense future.

The argument is not against the CVN per se, nor is it in any way against the crying need for much greater U.S. naval might. The core of America's strength is its economy. That economy rests largely upon almost unconstrained access to overseas resources and overseas marketplaces. Well over 90% of all overseas trade moves by ship, much of the rest through the airspace overlying the shipping lanes. We are a maritime nation. We must have a credible maritime defense force to preclude interruptions to our overseas trade. The contribution which CVNs can make to support future maritime defense needs is suspect. There may be better ways to spend our hard-earned naval dollars.

This is no casual matter, for the CVNs are truly awesome ships of war. They can cruise around the world at 30 or more knots without refueling. They can carry almost 100 warplanes, whose lethal combat reach can extend up to 1,000 miles from the ship. The 6,000-man crew and the multimillion dollar support equipment integral to the carrier can launch 200 or more sorties a day in war or provide a slumbering giant of a military presence force in peace at almost any point on the globe's oceans.

Nor is it possible to pay undue homage to the carriers of the past. They won the great war for us in the Pacific. They have helped keep the peace in the Mediterranean for more than three decades. They provided our only means for rapid intervention in both Korea and Vietnam, and they have been instrumental in quashing hundreds of international crises all over the world merely by virtue of their timely arrival on the scene.

And there is a lot of wisdom shown in the Navy's bid for two CVNs. Buying in bulk—and two giant aircraft carriers are a lot of that—makes good economic sense. Buying a proven product—the *Nimitz* is a fine ship—shows good procurement sense. And striking for funds while the defense rebuilding iron is hot demonstrates sharp political acumen.

But continuing to base our naval future on the large carrier weapon system reveals a troublesome lack of both tactical and strategic wisdom.

Unfortunately, this awesome ship-of-the-line is seriously flawed by some basic facts of life in tactical naval warfare. Carriers, like all displacement hull ships, float in water. When holed in sufficient manner, each will sink. Except in very unusual circumstances, all ships sink one at a time. None are militarily useful after sinking in mid-ocean. Large carriers represent a fantastic concentration of naval assets within a single displacement hull. They are the core of both the offensive and defensive fighting strength of our Navy and have been over most of the past 50 years. The loss of a single CVN, should that dreadful happenstance ever take place, would mark a grievous national wound, from which the recovery would be long and arduous. The Navy has studied the carrier vulnerability issue for decades, usually in terms of how many bombs or missiles with how much TNT and how much penetration would cause how much damage to which systems, etc. Little attention has been paid to the nuclear war-

head, probably because common opinion holds that a single hit of this type would prove fatal.

There are a number of other tactical shortcomings of large aircraft carriers. They require deep-water ports and a tremendous amount of highly specialized pier-side support for repairs. They have only one landing runway which can handle only one aircraft at a time. Their aircraft are essentially catapult-dependent. For almost all flight operations, the ship must steam into the wind, which makes for problems in confined waters or when attempting to transit long distances during a period of adverse winds.

But most pertinent of all is the basic nature of the large aircraft carrier and her conventional catapult/tailhook aircraft. This ship-air wing team is a very useful, extremely efficient, and relatively safe system for projecting military power from a sea sanctuary against targets and enemy forces ashore. This was the typical combat scenario for much of the Pacific in World War II, for Korea, and for all of Vietnam. But the large aircraft carrier is not very useful, efficient, or even safe at common sea control missions, where submarines, land-based aircraft, and long-range antiship missiles represent the major threats. For sea control, a large number of smaller ships is better, primarily because of the higher probability of having at least one warship in the corner of the ocean where and when she is needed. Using a CVN for sea control missions is tantamount to using a sledgehammer for swatting flies. And while projecting power ashore will never disappear as a naval mission, it should take a distinct backseat to the sea control challenge now being mounted so effectively by the Soviet Navy.

But the strongest professional military argument against the CVN forever syndrome takes root from the rapidly changing nature of the missions for seabased tactical air power. Naval aircraft were originally the scouts of the fleet, used to extend the visual horizon of the battleships and cruisers from an airborne perch. As aircraft technology improved, these scouts soon took over the weapons-delivery tasks of the naval guns. They could take a bomb farther and deliver it more accurately. As they did, the battleships passed into history and the cruisers and destroyers were converted into carrier escort ships, used primarily to provide close-in defense augmentation for the lumbering giant.

Nowadays, the missile (essentially an unmanned, nonreturnable flying weapon) promises to fly farther than the aircraft, deliver a payload with greater accuracy, and most importantly, to hazard only the unmanned projectile to the enemy defenses in the process. So the weapons-delivering naval aircraft will also be passing into history, slowly but inexorably. This does not imply the demise of sea-based tactical aircraft, however. They will remain as an essential part of naval strength throughout the foreseeable future. In fact, they will probably be needed in even greater numbers than today. But their role and their missions will change from being the "main battery" itself to supporting the new main battery of surface-launched, submarine-launched, and possibly even land- or air-launched long-range missiles. The tactical sea-based aircraft's primary duties will be to find and identify targets and to direct the missiles onto those targets. Ironically, this role is a modern version of the original scouting aircraft of yesterday.

This role-changing process has already been under way for some time. It can be measured by comparing the percentage of a 1970 carrier air wing devoted to offensive attack missions to that of today. In the past, an overwhelming majority of these assets were pure attack aircraft. Today's air wing, of necessity, includes air-defense specialized fighters, airborne early warning aircraft, electronic warfare aircraft, surveillance and reconnaissance aircraft, antisubmarine warfare fixed- and rotary-wing aircraft, and tankers. The numbers of purely offensive attack aircraft has gradually eroded. The upcoming replacement of A-7 light attack Corsairs by multi-purpose (fighter defense and attack) F/A-18 Hornets marks a further major step in this trend of changing roles. More and more, the sea-based aircraft are becoming sensor-carriers rather than weapons-delivery platforms, implying that their speeds, "g" tolerances, and maneuverability requirements will all be lowered. This, in turn, implies that their basing structure need not be highly centralized—in fact, a dispersed structure would be more effective. This, fortunately, coincides with the sea control needs of the future. Also implied is a much improved capability to operate more than low-performance helicopters from the decks of smaller ships. Ergo, the argument for vertical or short takeoff and landing (V/STOL) aircraft.

Large aircraft carriers have another rarely publicized, but important, characteristic. They do much much better in twos and threes than they do independently. In multiple operations, one ship can fly the night missions, another the day, thereby permitting the "off-ship" to rearm, refuel, work on aircraft, or just rest her hardworking crew. Or defensive and offensive duties can be divided to increase the efficiency of deck-handling operations. Or older ships can be added to the offensive operations in high-threat scenarios by keeping them under the defensive umbrella of the newer, more capable carriers. But with only a dozen carriers to choose from and a global threat to contend with, and with single carriers constantly deployed as "station ships" many thousands of miles apart from each other, is it realistic to even consider multiple carrier combat operations?

In a strategic sense, the predilection of Navy leaders for CVNs forever is even more disturbing. The new ships promise to provide relief for the most pressing present peacetime need—maintaining at least one carrier on a permanent "Camel Station" in the Arabian Sea off the Persian Gulf. The CVN design fits this peacetime mission requirement quite well. She is almost totally self-sufficient, rarely requires a port visit or repairs for maintenance, and includes every possible amenity in her capacious hull to relieve the tedium for the crew. But the moment a war starts, the Arabian Sea CVN could be in deep trouble. If the Soviets are the enemy, they are only 1,000 miles away. And, when the shooting started, the utility—even the survivability—of the CVN would be questionable. If the enemy is a local malcontent nation, we have an extremely valuable defense resource exposed to a two-bit threat, and could lose more than the fight was worth to a few lucky hits by a fast torpedo boat, a rudimentary aircraft, or a mobile shore-based missile battery.

Combat credibility, as perceived in the minds of the potential enemy, is the key to a successful presence mission. As technological progress has permitted dramatic improvements in ground-to-air defensive systems, as carriers grow larger, more valuable, and easier to locate, and, in the wake of America's unhappy experience in Vietnam, the combat credibility of the entire attack carrier system erodes. There are a number of areas of the world where large aircraft carriers do not steam. It is not that they cannot go there, but simply that it is too risky to expose them in such areas. More and more, the station ship carriers are becoming more the "presence pawns" of international politics than the "fighting ladies" we would like them to be.

The presence mission, long the forte of naval forces, is becoming suspect in today's nationalistic but communicative world. We no longer enjoy the luxury of being strong while all others are weak. We may still be strong, but they are not so weak these days. Steaming a magnificent warship into the grand canal of a capital city is more often the occasion for ugly demonstrations and mob scenes than official receptions and state dinners. Certainly the carrier operating hundreds of miles at sea today in the Indian Ocean means something to our local friends ashore. But will it mean anything at all within a few years? Or would a Rapid Deployment Force poised at stateside bases provide a more effective presence for several areas simultaneously?

Wartime capabilities are the keys to combat credibility, which in time provides the cornerstone to truly effective peacetime use. We should not overemphasize power projection forces to the detriment of sea control needs.

Sensible and sound alternatives to the CVNs forever policy do exist. None are easy. None are quick. None are cheap. And none should be expected to provide a single panacea for all our future naval problems.

The concept of operating a large number of smaller carriers, however, offers many potential advantages—e.g., more ships to choose from, better tailoring of forces for more precise application of power, alleviation of the crowded naval home-port metropolises of San Diego and Norfolk, better support of the trend toward sea control instead of power projection, less visibility to surveillance sensors, less risk of exposure in troubled political waters, better ability to mass or disperse forces as needed, easier and faster shipbuilding, etc.

Myriad issues and numerous trade-offs are implicit in any smaller carrier concept. The choice of aircraft types—conventional takeoff and landing (CTOL), short takeoff and landing (STOL), or V/STOL aircraft (or all of them)— represents a major question. Others are seakeeping qualities, ranges, speeds, endurance, magazine capacities, propulsion alternatives, vulnerabilities to combat damage, servicelife expectancies, potentials for "stealth ship" characteristics, and costs of all kinds. Operational changes include efficacies for independent employment, combined operations with larger carriers, command-and-control requirements, levels of integration with external resources, commonality and interoperability with allied navies, and even the roles for naval reservists.

The strategic wartime goals of the Soviet and U.S. navies are quite disparate. Ours is to maintain vital ocean links with our allies in Europe, Asia, the Persian Gulf, the Mediterranean, and the South Atlantic. The Soviets' goal is to sever as many of these links as possible, as soon as possible, and as permanently as possible, even if the entire Soviet Navy had to be sacrificed to the effort. With our oceanic ties broken, their land campaign could "mop up" Europe, the

Middle East, Southwest Asia, and a goodly chunk of Africa at their leisure. Would they hesitate to use nuclear weapons far at sea, against a handful of U.S. aircraft carriers at widely separated points? Their penchant for carrying atomic naval warheads in all sorts of warships seems to indicate that they have already passed that decision point. They carry them because they plan to use them. We carry them only in case we might have to use them.

When we concentrate our primary naval offensive and defensive strength into 12 to 15 carrier hulls, we are playing into their strategic hands. We cannot hope to cover a global threat with this number. Maybe we could with 50 to 60 CVN's, but never with 15! One ship can be in only one spot at any one given point in time.

Somewhat akin to the smaller carrier concepts is the idea of adding some multipurpose surface combatants which are neither carriers nor battleships, but a hybrid of the two. Such ships would integrate air, surface, and subsurface sensors and weapons to a much greater extent than is now common. The goal for such a design would be combat credibility, both offensively and defensively, for relatively independent operations. The Soviets' *Kirov* is perhaps the embryo of such a ship.

Another range of issues and trade-offs appears with this concept. Could the ship really survive an air or subsurface attack? Could she really support more than a handful of sensor-carrying aircraft? Would not she be overly dependent upon external resources? If she cannot prudently operate independently, what should she escort, or by what ships should she be escorted?

Another alternative concept with great promise is to significantly increase our naval reliance upon land-based air resources. As recently as the 1960s, reasonably conclusive arguments could be supported for a national tactical air structure which sharply separated individual service roles. It is hard today, and will be much harder in years ahead, to continue to support the arguments for this structure. Deep-seated organizational traditions and customs serve to obfuscate almost any suggestion in this area, but facts remain. Air Force airplanes do fly over water; Navy airplanes do fly over land. Both the Marine Corps and the Army fight land battles, and the Coast Guard guards our coast. Maritime defense has to be considered as the cornerstone to national survival in the future. The Navy will need all the help it can get, particularly maritime tactical air assets of all kinds, from helicopters to Mach 3 fighters. In an overall sense, the United States probably has all the tactical air power it needs. But when viewed in service terms, there will never be enough to meet all of the independently viewed challenges.

There are other potential maritime defense assets worthy of development. Our burgeoning commercial helicopter world represents one of these.

In wartime, many of these very capable aircraft, with naval reserve aircrews, could easily and rapidly be dispatched to sea atop almost any available merchantman containership to help with the antisubmarine warfare and command, control, and communication chores of a convoy. And it is now possible to modify some fairly large commercial air transports to operate from carrier decks or to provide a quick source of aerial tankers. And there is a real potential for mating high-speed surface skimmers and hydrofoils with V/STOL and rotary-winged aircraft. And as the oil rigs and the sea mining efforts move farther out into the oceans, these two become potential bases for getting more aircraft out to sea.

The entire philosophy of how we deploy our naval assets cries out for serious review. A great advantage of naval forces is mobility, which is irrevocably lost when ships' deployment commitments are made to "station" forces in any single area. Any veteran of a few of these long peacetime deployments must wonder from time to time about our penchant of "showing the flag" to seagulls and albatrosses in varied distant waters. In the first place, are such deployments really necessary? If so, do they have to supply continous coverage? Or do we have to maintain constant force levels?

We could vastly improve our naval readiness, and coincidentally retake the cold war naval initiative, by using a few small "flagships" as presence pawns and sending large-scale forces on intermittent, short-term deployments.

The argument will undoubtedly be raised that the new CVNs are merely a stopgap measure, designed to bolster our present forces until the new technologies of space, V/STOL, missilery, and laser guns can produce the "real" U.S. Navy of the future. However, the research and development budget allocations and other published actions and plans bely this argument. V/STOL has been cut back to next-to-nothing. The Marine Corps' promising new V/STOL Harrier is studiously ignored for potential "naval" uses. Most of the so-called new missiles are merely rehashes of older, relatively incapable ones. The recommissioned battleships are to retain their 16-inch gun batteries (Why?) and may be employed as numbered fleet flagships, a role closer to that of a communications center than a combat warship. Multipurpose ships are a Soviet idea—suffering from "not-invented-here?" The Arapaho containership program is widely considered a joke. Commercial helicopters are of no concern to the Navy. U.S. Air Force-U.S. Navy maritime cooperation attracts a lot of high-flown oratory but damn little real progress, and an active duty aviator who espouses anything even resembling a "small" aircraft carrier commits career suicide.

Notwithstanding all the other arguments, the primary case against the CVNs forever policy rests upon the diversion of naval dollars from research and development for the future into military hardware of the soon-to-be-past. If calculated risks must be taken on national security, the era of the 1980s seems to be an opportune moment to look ahead, not astern. No Americans are in combat overseas, only Third World conflicts are threatening, the Soviets are up to their elbows in buffer-state politics, agriculture disasters, and the mortality of their leadership, world concern is increasingly economic instead of militaristic, and the United States is the acknowledged world leader in science and technology. We need a bigger and a better Navy, but buying two CVNs at a time is simply *not* the way to do it.

It is naive to expect that the large carrier will remain the primary fighting ship-of-the-line much beyond the turn of the century, if even that. We are better advised to pay more homage to research for the new weapons we will need and to the new operating concepts for their use than to rely upon "CVNs forever" for our maritime defense future.

(A 1944 graduate of the Naval Academy, Captain O'Rourke served during World War II in the USS *Hancock* (CV-19), during the Korean conflict in the USS *Lake Champlain* (CV-39), and during the 1962 Cuban Missile Crisis in the USS *Enterprise* (CVAN-65). He commanded several all-weather fighter squadrons, an ammunition ship, and the USS *Independence* (CVA-62). Prior to retirement in 1974, he directed the Navy Fighter Study Group. A frequent contributor to the *Proceedings* and a former member of the Naval Institute's Board of Control, Captain O'Rourke is currently vice president of Maritime Associates, Inc., of Burke, Virginia.)●

CONFLICT BETWEEN JOINT COMMUNIQUE AND TAIWAN RELATIONS ACT

● Mr. GOLDWATER. Mr. President, last Friday the Senate Subcommittee on Separation of Powers held a very important hearing to review the practical effect and constitutional implications of the joint communique between the United States and Red China announced on August 17, 1982. Senator EAST, chairman of the subcommittee, deserves the applause of every Member of this body for his decision to promptly address the issues arising from the obvious contradictions in the communique and the Taiwan Relations Act. The principles at stake go to the heart of the separation of powers between the executive and legislative branches and involve our basic powers as the lawmaking branch of Government.

Now, I am aware that the President himself issued a separate statement to the press on the same day as the communique was issued. I have been informed about the six assurances which President Reagan gave to President Chiang of the Republic of China regarding the communique. And, I have seen the recent message presented by Mr. Powell Moore, Assistant Secretary of State for Congressional Relations, to Senator EAST declaring that the communique "is not an executive agreement and it creates no binding rights or obligations under international law."

The problem we are left with, however, is the fact that our Government—at least that part of Government represented by the executive branch—is talking out of both sides of its mouth. The communique says one thing and the public explanations say another.

One day the executive branch proclaims that the United States "does not seek to carry out a long-term policy of arms sales to Taiwan." The next day it declares that the Taiwan Relations Act will be fully implemented. Yet the act provides for a long-term commitment by the United States to sell arms to Taiwan indefinitely.

The United States tells Red China that our arms sales to Taiwan "will not exceed, either in qualitative or in

quantitative terms, the level of those supplied in recent years." Yet the Taiwan Relations Act has no limit of any kind on the quality or quantity of arms, other than the needs of Taiwan at any given time in history.

The United States has assured Red China "that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." Yet the Taiwan Relations Act says nothing about reducing arms sales to Taiwan, either gradually or otherwise. The act allows these sales to increase, or decrease, or remain at current levels, whatever is "necessary to enable Taiwan to maintain a sufficient self-defense capability."

Regardless of these direct contradictions, and other I have not mentioned, the President's statement of August 17 assures the American people that the communique "is fully consistent with the Taiwan Relations Act" and that arm sales "will continue in accordance with the act."

If that is so, how can the United States promise to gradually reduce sales? How can we pledge to make a "final resolution" of these sales? Let us remember that what the Communist Chinese have in mind as a "final resolution" is conquest and control over Taiwan, something the Communist regime has never held.

The latest tactic of the State Department is to say that it does not matter what the communique provides. It is not binding and is no more than a statement of the policy of the President.

The problem here is the relationship between policy and action. We are not talking about a snap response to a reporter's inquiry at a press conference. What we have is a formal, printed statement announcing the President's policies. In these circumstances other nations will ordinarily assume he means it and plans to live up to his words, especially if the wording of that statement has been deliberated on and negotiated with another government over a period of several months.

It would be highly irregular for any President to issue such a formal policy statement on a grave and sensitive issue of foreign policy knowing and intending that his words will have no substance and will not be used in any way to guide the actions of his country. If this is what the State Department is telling us, then it would make our country look foolish in the eyes of everyone, both our friends and adversaries.

Mr. President, I was unable to attend the hearing chaired by Senator EAST, but I did offer a prepared statement for the permanent record. The statement discusses the joint communique and the basic constitutional principles involved in this matter, and rather than repeat the same points today, I ask that the text of the statement may appear in the RECORD.

The statement follows:

STATEMENT OF SENATOR BARRY GOLDWATER

Mr. Chairman, I appreciate your invitation to appear before the Subcommittee, and I commend you for addressing the procedure for law making and termination. The fact that it is necessary to hold such a hearing is a shocking commentary on just how far the nation has moved away from the basic principles of the Constitution given to us by the original Framers.

CONSTITUTIONAL ROLE OF LEGISLATURE

We are discussing a principle that every school child was once taught: The Legislative Branch must participate in making, amending, or repealing a law. The only exception is that the Supreme Court may declare an invalid law to be unconstitutional.

Former President Carter broke this tradition in 1978, when he unilaterally abrogated the Mutual Defense Treaty with Taiwan. Now, we are confronted with a joint communique that, on its face, attempts to supersede a valid statute, the Taiwan Relations Act.

In both instances, I put the blame for violations of constitutional principle on the permanent bureaucracy at the State Department. The professional bureaucrats, who carry over from one Administration to the next, have in mind a single goal, and that is to absorb all power into their hands.

Their effort is made easier because Congress has too often remained silent in the fact of executive power-grabbing and failed to assert its proper constitutional role in making fundamental policy decisions that constitute the law of the land. Either for partisan political reasons or lack of attention, we have allowed executive power to increase at the expense of our rightful legislative functions.

The two Houses of Congress, and the Senate itself, were not given specified authorities by the Framers simply as a convenience or a whim. The Framers expected us to exercise these authorities in a responsible manner. Under the scheme of government they set up, it is our duty, and not merely our pleasure, to participate in making, amending, or repealing the law of the land.

SEPARATION OF POWERS

The Framers also intended that the Legislative Branch would be an integral part of their system for maintaining the separation of powers doctrine. Put simply, this means the President must not invade legislative functions, and Congress must not usurp executive powers.

The purpose was explained by James Madison, who wrote in The Federalist No. 47, that the "accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny."

In order to know when one branch is encroaching on the other, however, we must know what classes of power are "legislative" and which are "executive."

Charles Warren, one of the century's great scholars of the Constitution, concluded that the best example of what the Framers deemed executive power to consist of is that given by Thomas Jefferson in his Draft of a Fundamental Constitution for the Commonwealth of Virginia in 1783. C. Warren, The Making of the Constitution, 526 (1937).

In this draft, Jefferson repudiates the idea that executive powers in America meant the same thing as the king's powers in England. He writes that:

"By Executive powers, we mean no reference to those powers exercises under our former Government by the Crown as of its prerogative, nor that these shall be the standard of what may or may not be deemed the rightful powers of the (Executive). We give them these powers only, which are necessary to execute the laws (and administer the government), and which are not in their nature either legislative or judiciary." Reprinted in Warren, id., at 526.

The significance of Jefferson's concept is that America rejected the monarchical definition of executive power and substituted for it a new, republican distribution of powers, in which the executive is limited in the extent and duration of its power.[1]

THE FRAMERS ALLOTTED DIFFERENT FUNCTIONS ON THE SAME SUBJECT

This does not mean that the legislative and executive departments are totally separate and distinct from each other. Each department may exercise a different function over the same subject according to whether the Framers believed the matter called for legislative deliberation, executive action or judicial consideration.[2]

Madison explained the principle at the Constitutional Convention as follows:

"If a Constitutional discrimination of the departments on paper were a sufficient security to each against encroachments of the others, all further provisions would indeed be superfluous. But experience had taught us a distrust of that security; and that it is necessary to introduce such a balance of powers and interests as will guarantee the provisions on paper. Instead therefore of contenting ourselves with laying down the Theory in the Constitution that each department ought to be separate and distinct, it was proposed to add a defensive power to each which should maintain the Theory in practice. In so doing we did not blend the departments together. We erected effectual barriers for keeping them separate." 2 Records, supra, at 77.

Thus, law making and law termination are not single acts. They are a complex sequence of acts and there is a different allocation of functions under each sequence.

For example, the President may "propose" a law, but Congress "makes" the law. The Senate may give its "advice and consent" to ratification of a treaty, but the Executive communicates formal notice of ratification to foreign states.

Once we recognize that the Framers allotted powers on the same subject to different departments, we can understand the importance of the fact that the Constitution specifically confers a role in foreign affairs to the legislature. The President makes treaties and appoints ambassadors, but by and with the advice and consent of the Senate. The Congress regulates commerce with foreign nations, declares war and defines offenses against the law of nations. This means the President has no claim to abso-

[1] Similarly, James Wilson declared at the Constitutional Convention that he "did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers." 1 The Records of the Federal Convention of 1787, at 65-66 (M. Farrand ed. 1937).

[2] James Wilson said in the Constitutional Convention: "The separation of the departments does not require that they should have separate objects but that they should act separately tho' on the same objects." 2 Records, id., at 78.

lute powers in the field of foreign affairs and cannot override a statute even if it conflicts with his foreign policy.

STATUTES AND TREATIES ARE BOTH LEGISLATIVE ACTS

It is also important to note that the Founding Fathers viewed both statutes and treaties as legislative acts. For example, Alexander Hamilton wrote in The Federalist No. 75 that the treaty power "will be found to partake more of the legislative than of the executive character." In the same paper, Hamilton wrote that the full treaty power had not been committed to the President because "it would be utterly unsafe and improper to intrust that power to an elective magistrate of four years duration." He added "that the joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them."

At the Pennsylvania ratifying convention, James Wilson, one of the leading Framers, said: "Neither the President nor the Senate solely can complete a treaty; they are checks upon each other, and are so balanced as to produce security to the people." 3 Records, supra, at 166.

One of the great constitutional scholars of all time, Supreme Court Justice Joseph Story, wrote in a similar vein. In his famous Commentaries on the Constitution, Story stated it "is too much to expect that a free people would confide to a single magistrate, however respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties." He explained that by making what is done by the President only "preliminary" and requiring "the assent of other independent minds to give the President's action a legal conclusiveness", the Framers had imposed a check "which awakens caution, and compels to deliberation." Commentaries, *id.*, at 359 (1833).

These discussions of the treaty power apply with equal or greater force to statutes. The Framers deliberately involved the Legislative Branch in the process of making, amending, and repealing both statutes and treaties because it would "add to the safety of the soceity." The general public would enjoy additional security by requiring the concurrence of the legislative body in developing the fundamental policy of the nation.

REPEAL OF A LAW

This brings us to one of the interesting features of the Constitution, its silence on the specific procedure for terminating statutes or treaties. This silence is not surprising because, in the words of historian Arthur Bestor, the principle concern of the Framers "was the proper allocation of the various positive powers of government." A. Bestor, Respective Roles of the Senate and President in the Making and Abrogating of Treaties, The Original Intent of the Framers of the Constitution Historically Examined, 55 Wash.L.Rev. 1,17 (1979).

In the absence of specific constitutional instruction about termination, reversal by those branches who participated in the adopting process is the logical procedure of repeal. Professor Bestor believes this principle was so firmly established in Englist law, that it was adopted in America without question. Bestor, *id.*, at p. 20.

For example, William Blackstone's famous Commentaries on the Laws of England, which was widely circulated in America at the time of our Constitutional Convention, emphasizes the maxim "that it required the same strength to dissolve as to create an obligation." W. Blackstone, 1 Commentaries, 160-161, 185-186 (4th ed., 1770).

The strength of the principle that statutes and treaties are binding on the President and cannot be amended or repealed without some form of legislative approval is also derived from Article II, section 3, of the Constitution, which provides that the President shall "take care that the laws be faithfully executed." Obviously, this provision requires President to uphold the laws, not to unilaterally abrogate or supersede them.

CONFLICT BETWEEN JOINT COMMUNIQUE AND TAIWAN RELATIONS ACT

Applying these principles to the specific subject before the Subcommittee, we see that the Executive Branch by itself lacks any power to amend or replace the Taiwan Relations Act. The President cannot make unilateral pronouncements that prevent implementation of the Act. The President cannot enter into an agreement with a foreign country substituting different commitments than are provided for in that Act. In any area where the joint communique may conflict with the Taiwan Relations Act, the Act prevails.

Now we reach the question as to whether there is any conflict between the Act and the joint communique. I think there is.

There is nothing in the Act that says arms sales to Taiwan shall be steadily reduced in quality or quantity until the sales disappear. Yet the communique states that the United States "intends to reduce gradually its sale or arms to Taiwan." It also declares that United States arms sales "will not exceed in qualitative or quantitative terms the level of those supplied in recent years."

This violates the provisions of section 3 of the Act, which provides that "the United States *will* make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." *Emphasis added.*

Moreover, section 3 provides that both the President and Congress together "shall determine the nature and quantity" of defense sales based solely upon "their" judgment of Taiwan's needs. In contrast, the communique indicates that the President alone shall make that judgment.

Also, I am concerned that the communique raises a question of sovereignty. The United States has never recognized political sovereignty by Communist China over the authorities and people on Taiwan.

In fact, the term "Taiwan" is defined by section 15 of the Taiwan Relations Act to include not just the people living on Taiwan, but specifically, "the governing authorities of Taiwan recognized by the United States as the Republic of China prior to January 1, 1979." In this provision, the Act clearly recognizes that political sovereignty over Taiwan is possessed by the governing authorities we had formerly recognized as the Republic of China.

From this, it is clear that any interpretation of the communique that may imply Chinese communist sovereignty of Taiwan is in conflict with the Act. Unfortunately, the communique is not clear on this point. For example, point 5 of the communique states that the United States "has no intention of infringing on Chinese sovereignty and territorial integrity, or inferfering in China's internal affairs . . ." In the immediately preceding point 4 of the communique, Red China "reiterates that the question of Taiwan is China's internal affair." The juxtaposition of the two points creates an impression the matter is within the sovereignty of the communist regime.

Also, we should look at point 1 of the communique in which the United States acknowledges "the Chinese position that there is but one China and Taiwan is part of China." In contrast, the Shanghai Communique of 1972 had acknowledged "that all Chinese on either side of the Taiwan Strait" maintain that position. The reference to "Chinese on either side of the Taiwan Strait" is missing from the recent communique, as it was in the 1978 communique of former President Carter. This indicates that the United States acknowledges only the position held by Red China and disregards the position of the authorities on Taiwan.

The communique of 1982 is filled with double talk and ambiguities of this kind, but we should make it clear at these hearings that nothing in the communique can or does supersede the position taken in the Taiwan Relations Act.

Communist China has never held any effective control over Taiwan. The only national government with sovereignty on Taiwan is the Republic of China, which continues to enjoy diplomatic recognition by 22 countries.

RECOMMENDED CONGRESSIONAL ACTION

Mr. Chairman, I introduced an amendment to the Debt Ceiling Increase bill that would reaffirm the basic constitutional principles discussed. My amendment, Number 2036, is a straightforward declaration by the Senate that "no statute or treaty shall be made, amended, or terminated without Senate approval." I believe that passage of that expression by the Senate as an amendment or a separate resolution, together with the hearings by your Subcommittee, will be the start of a long overdue decision by the Senate to reclaim its law making powers.

The joint communique is a symptom, not the problem. I hope your Subcommittee will address the long range, constitutional issue of maintaining the separation of powers, not only in the foreign affairs field, but the domestic area as well.[3]

NEED TO AMEND THE FOREIGN CORRUPT PRACTICES ACT

● Mr. CHAFEE. Mr. President, in an interview appearing in the Legal Times on Monday, September 20, 1982, Mr. Richard Shine, the Chief of the Justice Department's Multinational Fraud Branch, talked of the need to amend the Foreign Corrupt Practices Act. During that interview Mr. Shine

[3] When President Carter dumped the Mutual Defense Treaty with Taiwan, I challenged his action in the courts. After the lower courts split on the issue of the President's authority to abrogate a treaty without any legislative approval, the Supreme Court granted certiorari but dismissed the suit. The High Court ducked the Constitutional question. The Chief Justice and three Justices held the case presented a political question and found that the legislature has resources available to protect and assert its interests; one Justice said individual Senators lacked standing; one Justice concurred in the result without comment; two Justices wanted the case set for oral argument; and only one Justice supported the President's claim of power. *Goldwater* v. *Carter*, 444 U.S. 996 (1979); 617 F.2d 697 (D.C. Cir. 1979); 481 F. Supp. 949 (D.C.D.C. 1979). The failure of the Judicial Branch to reach the constitutional issue makes it obligatory on the part of Congress to act in defense of its powers or see our powers effectively lost by default.

also indicated his general support for the thrust of S. 708, my bill to amend the Foreign Corrupt Practices Act. I think it is very significant that S. 708 has not only received the support of the business community, the administration, and the Securities and Exchange Commission, but the bill has the support of the chief of the division of the Justice Department which has the responsibility for enforcement of the Foreign Corrupt Practices Act. Mr. President, I ask that a copy of the interview with Mr. Shine be inserted into the RECORD immediately following my statement.

The article follows:

FCPA MESSAGE HAS GOTTEN ACROSS, PROSECUTOR SAYS

(By Larry Lempert)

Most U.S. corporations that do business overseas seem to be going to "extraordinary lengths" to avoid violations of the Foreign Corrupt Practices Act, according to Richard S. Shine, the prosecutor who for the past several years led the government's effort to enforce this antibribery statute.

The message of the FCPA, which became effective in December 1977, has gotten across to "the vast majority of the U.S. corporate community," Shine said. In addition, he said, most private practitioners who counsel corporations about foreign payments seem to be erring on the side of caution—so much so that corporations may be passing up business opportunities unnecessarily.

Shine offered these observations in an interview during his last week as chief of the fraud section's multinational fraud branch in the Justice Department's Criminal Division. He left the department Sept. 17 to enter private practice as a litigator and legal counselor.

PRACTITIONERS ARE CAUTIOUS

Saying that he did not fault lawyers for being cautious, Shine noted that practitioners might be warning clients away from actions that never would concern Justice as a practical matter. Prosecutors would not read the act, for example, as forbidding goodwill gifts to foreign officials or gifts in return for hospitality, he said.

Shine is hopeful that pending legislation will help by codifying some of the moderate interpretations that have evolved. For example, S. 708, which was passed by the Senate late last year, states explicitly that goodwill gifts do not raise FCPA problems.

SUPPORTS AMENDMENT EFFORTS

The goal of S. 708 is to clarify ambiguities in the act without altering its basic purpose. Attention has focused on the FCPA's accounting provisions, its exemption for "facilitating payments," and the "reason to know" standard that determines when a corporation is liable for payments made by intermediaries. The Reagan administration supports the effort to amend the FCPA, although administration officials believe that some of S. 708's exemptions are stated too broadly.

This Congress is unlikely to act on S. 708. In the House, the bill has been lodged in an energy and commerce subcommittee whose chairman, Rep. Timothy E. Wirth (D-Colo.), is unsympathetic to changes in the existing statute. But proponents of amending the act are expected to try again next year.

Shine, who emphasized that he was expressing his personal views, said he supported the thrust of S. 708, although he said the bill had some flaws. As an example, he pointed to the bill's attempt to clarify the exemption for facilitating payments to officials whose duties are merely ministerial or clerical. S. 708 would exempt payments made to expedite "routine" governmental action by foreign officials. "In some ways, this is more ambiguous than the present statute," Shine said.

ENORMOUSLY HELPFUL

This and similar problems should be easily solvable, said Shine. If the ambiguities are ironed out, a statute along the lines of S. 708 will be "enormously helpful to the business community and not particularly harmful to law enforcement interests," he said.

According to Shine, Justice has received relatively few requests for statements of the department's enforcement intentions under the business review letter procedures instituted in the spring of 1980. Twelve such requests have been received; one is pending, and the department has issued releases explaining its views on the other 11. In 10 of these, Shine noted, the department said it intended to take no enforcement action. (In one, the department declined to review a proposed contract.)

While the department cannot claim that its review program has been a success in terms of the number of requests received, it has been successful in another respect, Shine said: "Although there have not been dozens of releases some have provided a significant amount of guidence." The release that outlined one company's precautionary measures, for example, went a long way in helping lawyers to interpret when a corporation has "reason to know" of improper payments, Shine said.

Shine said he supported a provision of S. 708 that would require Justice to issue guidelines explaining further the precautions that companies could take.

SMOOTH RELATIONSHIP

An important achievement during Shine's tenure as chief of the multinational fraud branch, he said, was the establishment of a "close working relationship" with the State Department. The branch now has policies that help avoid "unwarranted interference with foreign relations"—for example, the branch will not involve foreign government officials unless initial inquiries have established that there are substantial signs of wrongdoing.

About 35 investigations have been closed by his branch without prosecution, Shine estimated, adding that between 60 and 70 are pending. The branch has filed charges under the FCPA only twice, proceeding civilly in one instance and both civilly and criminally in the other. (The SEC has civil enforcement responsibility for the FCPA's antibribery provisions as they apply to publicly held companies. The commission has brought one such civil action; it has also brought civil actions for infractions of the FCPA's accounting provision.)

The number of enforcement actions by the branch has been low, Shine explained, because until now, significant resources have been tied up in the completion of pre-FCPA matters, because the gathering of evidence in overseas investigations is a complicated process, and because investigations often have to begin from scratch (rather than from corporate reports such as those submitted under the Securities and Exchange Commission's mid-1970s "voluntary disclosure" program, which led to many of the pre-FCPA cases).

Shine will practice on his own in Washington, D.C. He will be doing counseling and litigation on business-related criminal matters and civil enforcement proceedings, as well as multinational litigation.

Since 1971, Shine has served as a federal prosecutor. Before he was named to head the multinational fraud branch in 1978, he served as an assistant U.S. attorney and as a fraud section attorney.

Shine, 42, graduated from the Georgetown University Law Center in 1968. He then worked as a public defender on a fellowship at Georgetown. "I've been a prosecutor so long that a lot of people have forgotten I used to be a defense attorney. Prosecutors who dealt with me then, it's fair to say, found me to be a vigorous advocate," he said.

Shine's successor as chief of the multinational fraud branch is Joseph P. Covington, formerly an attorney in the branch.

ILLEGAL ALIEN AMNESTY

● Mr. EAST. Mr. President, an article pointing out the pitfalls of mass amnesty for illegal aliens appeared in the September 23, 1982, issue of the Washington Times. I ask that this article by Gary Imhoff be printed in the RECORD.

The article follows:

[From the Washington Times, Sept. 23, 1982]

IMMIGRATION AMNESTY COSTLY

(By Gary Imhoff)

The Simpson/Mazzoli Immigration Reform and Control Act, which may reach the House floor this month, contains a broad, general amnesty for illegal aliens. There has been a great deal of public opposition to amnesty, though not much congressional controversy over it. But many questions about amnesty have not been satisfactorily answered.

The main rationale for amnesty for illegal aliens is an anecdote, the story of John Doe, a fictitious, composite illegal alien. John Doe entered the United States several years ago. He has worked steadily, has been in no legal trouble, has married and settled down. Perhaps he has children who are American citizens; perhaps he owns his home; he may even have started a small business. He has learned English, has paid his taxes, has contributed to his community and this country. Deporting him would benefit no one, and would cause him and his family hardship. Other crimes have statutes of limitations, after which the criminal cannot be prosecuted. Why can't we legalize John Doe?

This anecdote makes a strong argument, and the fact is that almost no one opposes amnesty for John Doe. But the story of John Doe supports only a limited, restricted, case-by-case amnesty. John Doe II, an illegal alien who entered the United States two or three years ago and has since knocked about several cities doing odd jobs, working off the books, does not have a similar claim on our sympathy.

Requiring him to return to what is, after all, his home country is certainly not unreasonable. Yet a broad, mass amnesty, such as that contained in this bill, will encompass John Doe II as well as John Doe. Surely, advocates for a broad, mass amnesty must also have another rationale for it.

There are at least three strong arguments against providing a general amnesty to illegal aliens. First, and most importantly, it

will cause more illegal immigration. Potential illegal immigrants will come to the United States expecting either a future amnesty or to take advantage of this amnesty fraudulently.

Second, a general amnesty will be rife with fraud. Because the INS is overworked, underfinanced, and understaffed for its current work-load, the pending plan is for it to limit its role to reviewing amnesty paperwork and making final amnesty grants. The actual interviewing and processing of amnesty applicants will be done by the same voluntary agencies which now act as advocates for illegal immigrants.

I do not impute dishonesty to these voluntary agencies, but I do not expect them to view their clients' applications with a critical, skeptical eye. It is not unreasonable to anticipate fraud when the inmates are in charge of parole.

Third, there will be a public revulsion to a large-scale amnesty. Amnesty rewards those who have violated the law. We should expect strong public antipathy. The greatest opposition, of course, will come from legal immigrants who followed all the rules, waited patiently for their turn to come, and now are made to look foolish by those who benefit from scorning our laws, skipping ahead in line, and migrating here illegally.

In light of these three social disadvantages of a broad, general amnesty, the rationale for it would have to be strong indeed. This is that rationale: illegal immigrants in America are outside our legal system. Therefore, they are subject to exploitation. By keeping them illegal, we are creating an underclass and sustaining that system of exploitation.

At first glance, this is a powerful justification, but we should note the promise implicit in it: amnesty will solve this social problem by bringing the great majority of illegal immigrants within our legal system. For a broad, general amnesty to solve this problem, it must encompass most illegal immigrants.

But within recent years several other Western democracies—Canada, England, Australia, and France among them—have conducted amnesties for illegal immigrants, and in not one case has a significant portion of illegal immigrants registered. Even when the terms of amnesty are very lenient, the publicity widespread, and the good intentions of the government unquestioned, only a small portion of illegal immigrants are brought within the legal system.

There is no reason to believe that the U.S. will not follow this pattern. At the end of the year's registration period we may have registered perhaps a half million people. This is enough to encourage further illegal immigration, to have widespread fraud, and to create a public backlash. But it is only a small fraction of the millions of illegal immigrants in the United States. There will still be an underclass; there will still be exploitation. The social problem which amnesty is disigned to solve will be untouched.

I predict that, near the end of the registration year, Congress will be approached by the illegal immigrants' advocacy agencies. They will say that amnesty is not working because not enough people are signing up, and they will ask for some combination of three things: extension of the registration period; sweetening of the terms of amnesty, perhaps by giving welfare benefits to amnestied illegals; and suspension of the enforcement of immigration laws, as was done for the 1980 Census, "to encourage registration."

If Congress commits itself to amnesty for John Doe II as well as for John Doe, to general rather than selective amnesty, it will pay the price just one year from now.●

SCHOOL PRAYER

● Mrs. HAWKINS. Mr. President, I believe the Members of the 97th Congress have been granted a rare opportunity, the chance to restore voluntary school prayer to our public schools and other public institutions.

It amazes me that our own public school children have only slightly more religious freedom than public school children in the Soviet Union. As President Reagan said when he proposed a constitutional amendment allowing voluntary prayer:

> Public expressions of prayer should have more legitimacy in the United States than that which exists in an officially atheistic and totalitarian country.

Presently in the United States we have many restrictions of the proper expressions of one's religion. Children may not say a group prayer in the morning before they begin their school day; "Released Time" programs for religious instruction are allowed only if the instruction is conducted off school premises; children in kindergarten are forbidden to say a voluntary prayer before their noontime meal; one cannot post the Ten Commandments on school walls; the Government has banned student-initiated religious meetings held on school property during, before, or after school hours; and even voluntary student-initiated religious activities are prohibited.

The first amendment to the Constitution states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof * * *" How did we blindly accept restrictions upon our religious freedom?

The current law governing the recitation of prayer in public schools and institutions is the result of the U.S. Supreme Court's interpretation of the establishment clause of the first amendment. The meaning of the establishment clause was not questioned until 1947. After the Everson against Board of Education decision States could no longer determine their own policy on religious matters.

The holding in the Everson case is in striking contrast to the intent of the Constitution. When the first amendment was ratified in 1791, the framers of the Constitution included the establishment clause for two reasons: One, to prevent the creation of a national religion; and two, to grant States freedom in state-church matters. The establishment clause was intended as a Federal prohibition against the establishment of a national religion; it was not an attempt to preempt all expression of State policy. In fact, the State constitution of South Carolina made the Protestant religion the established religion of the State. The Supreme Court decision in Everson overturned previous interpretations of the establishment clause. It set a precedent for subsequent court decisions inconsistent with the intent of the Constitution.

In the early 1960's the Supreme Court held that the establishment clause of the first amendment forbade voluntary recitation of prayers and reading the Bible in public schools. Since then there have been several attempts in both the U.S. Senate and House to overturn the Court's decisions.

The question we now face, Mr. President, is whether or not to reinstate voluntary school prayer. There are several reasons I believe we should permit voluntary recitation of prayer in our public schools. First, State and local authorities are clearly in the position to develop a school-prayer policy suited to the wishes of their own students, parents, teachers, and administrators. The Federal courts are not. Second, the elimination of school prayer has gone beyond protecting the nonpraying students' right to abstain; in effect, it denies the right of willing students to pray if they wish. Third, public-opinion polls indicate that 70 to 85 percent of Americans favor a return to voluntary school prayer. Finally, permitting State and local authorities to determine their own policy on voluntary school prayer would reflect the true meaning and spirit of the first amendment.

The Helms voluntary school prayer amendment would prohibit the Federal courts and the Supreme Court from hearing cases involving school prayer. Congress is authorized to limit the Courts' jurisdiction by article III, section 2, of the Constitution, which reads:

> The Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

I support this amendment because it is time to turn this issue back to the States and localities so that each community across the country can formulate its own voluntary school prayer policy.●

CHIEF WARRANT OFFICER MARSHALL

● Mr. GRASSLEY. Mr. President, I congratulate CWO Ralph J. Marshall on his receipt of the Americanism Award for 1982 from the Nationale Forty and Eight. Iowa and the entire Nation can be proud of the contributions he has made during his long and distinquished military career. Chief Warrant Officer Marshall's commitment to serve his fellow man did not end with his retirement from the

armed services. As the present mayor of Miles, Iowa, he personifies the type of courageous individual we can all look to for demonstrated leadership abilities.

I call my colleagues' attention to the distinguished service Chief Warrant Officer Marshall has made to this Nation. I submit for the RECORD an article from the Forty and Eighter, September 1982.

The article follows:

AMERICANISM AWARD FOR 1982 TO BE PRESENTED TO IOWAN

Chief Warrant Officer Ralph J. Marshall, USA, retired, Mayor of the city of Miles, Iowa, is to receive the Americanism Award for 1982 during the Promenade Nationale in Niagara Falls.

Entering the Military in 1947, he was first sent to Germany where he flew the border between West Germany and Russia for the Intelligence Corps Allied Command Headquarters. In late 1951, he was reassigned direct from Germany to Korea because of a shortage of pilots. After flying 26 combat missions, he was shot down behind enemy lines. From 1955 until 1959 Marshall was stationed in Hawaii, flying the islands of the South Pacific for the Intelligence Corps, Pacific Command. In 1963 be was again sent to Korea for one year and was returned to fly for intelligence in the Santo Domingo Revolution.

In 1965, Marshall with his unit went to Vietnam by aircraft carrier. After flying 30 combat missions, he was again shot down and spent some time in the hospital at Clark AFB in the Phillipines. Returning to Vietnam he flew another 10 missions only to be shot down for the second time in that country. He was flown to Walter Reed Medical Center, Washington, D.C. After a long stay he was reassigned to the aviation center, Fort Rucker, Alabama, where he flew as a test pilot.

In Sept. 1968, as he was about to test fly an F-105, he suffered a stroke, leaving him paralyzed for 9 months and in the hospital for 14 months. He was then released from active duty with a medical discharge.

During his tour of 21 years of active duty, 14 of which were spent overseas, he received 27 decorations and awards. Some being the Silver Star, Bronze Star with Oak Leaf Cluster, the Flying Cross, Purple Heart, the Combat Infantry Badge, Paratroopers Badge and Master Aviator Wings.

Marshall is a past Second District Commander in the Department of Iowa and is presently a Department Vice Commander of Iowa. He is a member of Voiture 583, Jackson County, Iowa.

In addition to his other duties, he serves as Chairman of an Ad Hoc Committee investigating the POW/MIA in South East Asia.●

SCHOOL PRAYER AND THE IMPERIAL JUDICIARY

● Mr. EAST. Mr. President, there have been continuing expressions of interests in the issue of regulating the jurisdiction of the Federal courts. I have had occasion to articulate my views on this issue in an essay that appeared in the recently published book, "A Blueprint for Judicial Reform," which was edited by Messrs. Patrick B. McGuigan and Randall R. Rader. Published by the Free Congress Research and Education Foundation, this book contains many excellent essays on the topic of judicial reform.

Because the Helms school prayer amendment has generated so much interest in reform proposals involving regulation of court jurisdiction, I would especially like to share with my colleagues the essay which I authored entitled "The Case for Withdrawal of Jurisdiction."

Mr. President, I ask that the text of my essay be printed in the RECORD.

The essay follows:

THE CASE FOR WITHDRAWAL OF JURISDICTION

(By John P. East)

The genius of the United States Constitution is that it creates no power without providing a means by which that power can be restrained. Judicial review, by which the federal courts have the power to decide that legislative acts are unconstitutional, was an institution without precedent in the history of the world when our Constitution was adopted. Courts had not theretofore shared in the sovereignty of nations; rather, they had been creatures of sovereigns, first of absolute monarchs and later of legislatures whose acts were supreme law.

If absolute sovereignty was not to reside in the United States Congress—as it most certainly was not—then some other institution must have power to declare when Congress had transgressed the limits of its power. The difficulty, of course, was that in giving the federal courts the power to check congressional excesses, the Framers left open the possibility of judicial excesses. When a court exercises power not granted to it by the Constitution—whether the usurpation is at the expense of Congress or of the state governments—the result over time can be just as dangerous to life, liberty and property as a similar abuse of power by the legislature. Absolute power corrupts absolutely, and absolute judicial power is even harder than absolute legislative or executive power to reconcile with any theory of government by the consent of the governed.

Fortunately, the Constitution provides ways by which the American people, acting through the political process at the state and federal levels, can check any tendency of the federal courts to abuse the power of judicial review. Perhaps the most important safeguard is that federal judges are to be appointed by the President with the advice and consent of the Senate. The American electorate has shown a marked preference in recent years for presidential candidates who promise to appoint judges who will construe the words of the Constitution in good faith rather than twist those words to suit their own policy preferences. It is also possible to reverse erroneous judicial interpretations of the Constitution, in cases where these interpretations are overwhelmingly unpopular, by resort to the extraordinary and rather unwiedly method of amending the Constitution. Finally, the Constitution provides that Congress may define and regulate the jurisdiction of the federal courts. Perhaps precisely because it is the most potent weapon in the legislative arsenal, this last method has been the least often used as a response to specific abuses of the judicial power. It is, however, a constitutionally permissible response to such abuses; I believe that under certain circumstances it is also a just and a wise response.

Congressional control over the jurisdiction of the federal courts is authorized by three distinct constitutional provisions. The clearest such provision is in Article III, section 2, stating that the United States Supreme Court shall have appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court itself has held that the congressional power to make exceptions and regulations to the Court's appellate jurisdiction is clear and absolute. In *Ex Parte McCardle* (1869),[1] a lower federal court had denied a newspaper editor's claim that he was being held in military custody in violation of the Constitution. The editor appealed to the Supreme Court, which held that it had jurisdiction to hear the appeal. Then Congress passed an act denying the Court jurisdiction of appeals such as McCardle's. The Court therefore dismissed the appeal for want of jurisdiction, rejecting arguments that Congress could not use its authority over Court jurisdiction to affect pending cases adjudicating constitutional rights:

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

"What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case.[2]

A second constitutional provision has been held to grant Congress the power to make exceptions to and regulations of the jurisdiction of federal courts other than the Supreme Court. Article III, section 1 provides that there shall be only "such inferior courts as the Congress may from time to time ordain and establish." Since Congress need not establish any lower federal courts at all, it has long been recognized that Congress need not vest all jurisdiction over constitutional cases in those federal courts that it does choose to create. Writing for the Supreme Court in Lockerty v. Phillips (1943),[3] Chief Justice Harlan Stone said congressional power over the lower federal courts includes the power "of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." [4]

Finally, some congressional authority over the exercise of federal court jurisdiction has been said to flow from section 5 of the Fourteenth Amendment, providing that "Congress shall have power to enforce, by appropriate legislation, the provisions" of the Amendment.[5] Since a significant portion of the federal courts' caseload—and perhaps an even greater proportion of those cases in which the federal courts have extended their own power into areas traditionally regarded as legislative in nature—involve interpretations of the due process and equal protection clauses of the Fourteenth Amendment, and since the legislative history of the Amendment reveals that its framers distrusted the courts and regarded Congress as the principal guardian of the rights they were creating, this provision is poten-

References at end of article.

tially among the most powerful legislative tools for restricting the power of courts to enact judicial legislation in the guise of constitutional interpretation.

Despite the compelling textual and historical case for broad congressional control over federal court jurisdiction, and despite the Supreme Court's own consistent recognition of such congressional power, in the last three decades several theories have emerged according to which the power would be severely limited. These theories seem to have developed principally in response to specific suggestions for limitations on federal court jurisdiction in areas marked by particularly egregious judicial distortions of the Constitution.

The most interesting and the most solidly grounded of these limiting theories was advanced by Raoul Berger in his book "Congress v. the Supreme Court." Professor Berger, a careful student of the debates surrounding the proposal of the Constitution, noted that the Constitutional Convention debate on the "exceptions and regulations" clause focused on appellate review of jury fact-finding. He suggested that the clause therefore did not authorize exceptions and regulations of federal court jurisdiction over questions of constitutional law.[6] The Framers, however, had language at their disposal to limit the exceptions and regulations power to review of jury fact-finding; they chose not to use such language, but instead adopted the unlimited language of Article III, section 2. Professor Berger later revised his view of the exceptions and regulations power, in light of the Fourteenth Amendment and its grant of enforcement power to Congress over the areas in which judicial legislation has been most common and in which congressional limitations on federal court jurisdiction are therefore most likely.[7]

A second limiting theory holds that Congress has the power to enact exceptions and regulations of the federal courts' jurisdiction only where such limitations are "not inconsistent with the essential role of the courts."[8] This theory is designed to allow Congress to withhold jurisdiction, for instance, according to the amount of money in controversy or the parties' places of residence. Such limitations on the courts have been enacted frequently over the last two hundred years; indeed, from the passage of the Judiciary Act of 1789 until the present day the federal courts have never been granted all the jurisdiction they might possibly be granted under the Constitution. But under the "essential role" theory, only such "innocuous" limitations would be permitted. Congress would be constitutionally prohibited from limiting jurisdiction in such a way as to circumscribe the effect of judicial doctrines that Congress believed to be erroneous.

There are several problems with this theory. First, it would have a federal court conduct an overt or covert inquiry into the motive of Congress in granting or withholding jurisdiction. Since even "innocuous" limitations on jurisdiction will result in denying the federal courts the right to resolve some constitutional questions, it is primarily those limitations enacted by Congress *because* they result in the removal of controversial constitutional questions from the federal courts that would be held unconstitutional under the "essential role" theory. The courts are always reluctant to conduct inquiries into legislative motive,[9] and the Supreme Court in *McCardle* specifically rejected the suggestion that an impermissible motive could vitiate a congressional withdrawal of jurisdiction.[10]

An even more basic problem with the "essential role" theory is that it begs the question: What is the essential role of the federal courts? As articulated by Chief Justice John Marshall in *Marbury v. Madison* (1803),[11] judicial review was simply a corollary of the doctrine that our written Constitution is the supreme law of the land and as such is binding on the courts as well as on other branches of government. When a court has jurisdiction of a case, and when the issue is unavoidable, the court may sometimes have to choose the Constitution over a legislative act that seems to the court to conflict with the Constitution. To posit, however, that the federal courts have the duty or power to take jurisdiction where it has been denied, is to confuse judicial review with judicial supremacy. The super-legislative role assumed by the Warren Court and not yet wholly abrogated by the current Court is not essential to our republican form of government. Nothing in the Constitution requires that the federal courts have jurisdiction over every constitutional case, and the plain language of Article III gives Congress the power to deny such jurisdiction.

A closely related argument for limitations on congressional power over federal court jurisdiction starts with the observation that Congress itself is bound by the provisions of the Constitution, and particularly by the Bill of Rights. If Congress acts in such a way as to deprive anyone of free speech, freedom of religion, due process of law, or any other right guaranteed by the Constitution, then that act of Congress in unconstitutional. In theory, a law depriving the courts of jurisdiction on some selective basis could itself violate the Constitution. For instance, a law requiring that the courts dismiss for want of jurisdiction any suit brought by a Methodist would almost certainly be held to abridge the free exercise of religion. The law would be void, and the courts would retain jurisdiction over suits brought by Methodists. Some scholars have argued that a law denying jurisdiction in a whole class of cases—cases involving school prayer, for instance, or abortion—would similarly operate to deprive litigants of their constitutional rights.[12] Thus the jurisdictional limitations would be void, and the courts would retain jurisdiction over the questions in controversy.

Again, the scholars who propose this theory are reading their own view of what it means to have a constitutional right into the argument over jurisdiction. In their view, nobody has a constitutional right unless he can get that right enforced in a federal court. This assumes the whole ground in dispute, and reads the congressional exceptions and regulations power out of the Constitution. Not only the federal courts, but also Congress, the President and all executive officers, and all state officials have the duty to obey the Constitution. Just as the courts must sometimes interpret the Constitution in order to enforce it, these other state and federal officers must sometimes act on their own interpretations of the Constitution. Where a federal court has jurisdiction over a particular case, its reading of the Constitution is binding on the parties to the case. Where there is no such jurisdiction, some other body will be the final arbiter. This does not constitute a denial of constitutional rights unless it is assumed that only the federal courts are capable of reading the Constitution correctly.

As a practical matter, disputes not resolved in the federal courts will usually be resolved in the state courts, since Congress has no power to deny jurisdiction to these courts. State judges take the same oath as federal judges to uphold the Constitution of the United States. An act of Congress that effectively channels constitutional litigation into such courts does not violate the Constitution.

The existence of state courts as an alternative forum for litigation of constitutional questions bolsters the case for absolute congressional control of federal court jurisdiction, but is also suggests a problem with the jurisdiction-limiting technique as a means of counteracting erroneous interpretations of the Constitution. Few constitutional scholars argue, for instance, that the Supreme Court's holding in *Roe* v. *Wade* (1973),[13] striking down all fifty state anti-abortion laws, represents a correct reading of the Constitution. Insofar as cases involving abortion continue to be resolved in the federal courts, in the practical political sense *Roe* will continue to be "the law of the land" until the Supreme Court reverses its unconstitutional 1973 holding. If Congress were to remove jurisdiction over abortion cases from the federal courts, such litigation would be conducted in the state courts. Some state courts might read the Constitution as all courts read it for two centuries prior to *Roe* v. *Wade*, and uphold state anti-abortion laws as constitutional. But many other state courts would probably regard the United States Supreme Court decision as a binding precedent. In these states, *Roe* would continue to be the effective law, and since the Supreme Court would never have occasion to hear another case involving abortion, it would be impossible ever to restore a uniform and correct interpretation of the Constitution.

The exceptions and regulations clause is not a panacea. It cannot cure all the effects of the judicial activism of the last few decades. Moreover, many sincere people believe that to deprive the federal courts of jurisdiction even in one or two areas would set a dangerous precedent that could greatly reduce the value of the independent judiciary as a bulwark of those rights that genuinely derive from the Constitution and not just from the political ideals of a few judges. These concerns are not to be taken lightly; but they must be weighed against the harm that is being done by the current regime of judicial usurpation of legislative authority. I do not believe it would be such a bad thing to use the jurisdiction-limiting power to send the judges a message, so long as we are careful to send them the right message. We should be willing to tolerate unpopular judicial interpretations of the Constitution, and even interpretations with which some of us personally disagree, so long as they are sincere attempts at interpretation and not at law-making. And efforts to regulate jurisdiction should be carefully circumscribed so as to achieve the desired results without creating jurisprudential chaos or setting dangerous precedents.

One moderate approach to the regulation of federal court jurisdiction was suggested by the Norris-LaGuardia Act of 1932, which deprived the federal courts of jurisdiction to issue certain labor injunctions. Congress believed that the federal courts were abusing their power in this area, and so Congress restricted that power. Rather than to deprive the federal courts of all jurisdiction in labor disputes, Congress chose a more moderate approach by forbidding only a particular remedy. Since an injunction can affect the lives of the parties to a lawsuit even prior to

a final adjudication of their rights and duties, it is an extreme remedy. Prior to 1932, in the judgment of Congress, the federal courts were using the unjunction remedy too harshly and too frequently. In *Lauf v. E. G. Shinner & Co.* (1938).[14] the Supreme Court upheld the power of Congress to deny the court the rights to resort to this remedy.

A number of recent proposals for curbing abuses of the judicial power use the technique suggested by the Norris-LaGuardia precedent. For instance, the Subcommittee on Separation of Powers of the Senate Judiciary Committee, of which I serve as chairman, recently reported favorably to the full Judiciary Committee on the Human Life Bill, one section of which deprives the lower federal courts of jurisdiction to issue injunctions in cases involving abortion. There are other areas in which this approach is promising. Mandatory busing of schoolchildren to achieve racial balance, for instance, and court-ordered affirmative-action quotas, are examples of the harsh and excessive use of the injunctive power by federal courts. Legislation has been proposed in this Congress which would curtail or eliminate the federal courts' authority to engage in these particular abuses of their jurisdiction.[15] Passage of such legislation would set no precedent not already set by the Norris-LaGuardia Act, and would not impair the power of the federal courts to hear civil rights cases and to grant relief other than mandatory racial-balance busing or injunctions involving racial quotas.

Should Congress enact into law any of these proposals to limit federal court jurisdiction, we can expect dire predictions about the future of our independent judiciary, our constitutional rights and our very system of government. Part of the answer to these alarms is to ask how the Framers of the Constitution would have reacted to the judicial excesses to which these legislative proposals respond. These were the men whose response to a centralized, unresponsive and arbitrary power was made manifest at Lexington and Concord. In providing for a system of checks and balances over any possible future assumption of absolute power by any one institution, the Framers were providing a moderate, political solution to an evil whose recurrence they feared. To employ one of the solutions they gave us, where the circumstances seem to warrant its use, is not only our power but also our duty.

REFERENCES

[1] *Ex Parte McCardle*, 7 Wallace 506 (1869).
[2] *Id.* at p. 514.
[3] *Lockerty* v. *Phillips*, 319 U.S. 82 (1943).
[4] *Id.* at p. 187.
[5] *See* Raoul Berger, *Congressional Contraction of Federal Jurisdiction*, Wisconsin Law Review 801 (1980).
[6] Raoul Berger, *Congress* v. *The Supreme Court*, (Cambridge: Harvard University Press, 1969) pp. 285–96.
[7] Berger, *supra* n. 5.
[8] *See, e.g.*, Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise of Dialectic*, Harvard Law Review 1362, 1365 (1953); Ratner, *Congressional Power Over the Jurisdiction of the Supreme Court*, 109 University of Pennsylvania Law Review 157 (1960); Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale Law Journal 498 (1974).
[9] *See, United States* v. *O'Brien*, 391 U.S. 367 (1968); *Flemming* v. *Nestor*, 363 U.S. 603 (1960).
[10] *Ex Parte McCardle*, 7 Wallace at p. 514 (1869).
[11] *Marbury* v. *Madison*, 1 Cranch 137 (1803).
[12] *See* Hearings on S. 158 before the Subcommittee on Separation of Powers, Committee on the Judiciary, United States Senate, 97th Congress, 1st Session (1980) (statement of Norman Dorsen); *cf.* Laurence Tribe, *American Constitutional Law*, (Mineola, New York: Foundation Press, 1978) p. 39.
[13] *Roe* v. *Wade*, 410 U.S. 113 (1973).
[14] *Lauf* v. *Shinner & Co.*, 303 U.S. 323 (1938).
[15] *E.g.*, S. 528, S. 1005, S. 1147 (97th Congress 1st Session).●

ALPENA, MICH., BABE RUTHERS ARE WORLD CHAMPS

● Mr. LEVIN. Mr. President, as the symptoms of pennant fever become evident through the land and we enter the homestretch in yet another baseball season, I think it is appropriate to recognize the senior Babe Ruth all-star world champions from Alpena, Mich.

The "Cardiac Kids" captured the hearts of baseball—and non baseball fans—like no other team has in an area rich in baseball tradition.

Alpena's route from its State title last July to the world championship in Denham Springs, La., in late August captured the attention of folks throughout my home State and the country.

The group of Alpena all-stars was chosen by Manager George Stevens, Jr., from regular season players on five area teams to form a team of 17 who went on to win the world championship with an astonishing 12 wins and 1 loss during the tournament.

The road was not an easy one, but coached by Bob Rohn and Dave Ruth the ballclub defeated Colorado Springs, Colo., by 1 run, 6–5, giving Alpena its first world champions in any sport.

I would like to take this opportunity to congratulate team members Blaise Ilsley, Scott Ferguson, Tim LeTourneau, Delton Alexander, Greg Ferguson, Brett Anderson, Chuck Stevens, Jim Skiba, Derek Idalski, Mike Spleet, Mike Morris, Andrew Rohn, Jim Richey, Bob Morley, Rick Donajakowski, Brian Glennie, and John Skiba for an outstanding performance. They are truly world champs in the great American tradition.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I know of no other business to come before the Senate. I inquire of the minority leader if there is any other matter he wishes to address to the body.

Mr. ROBERT C. BYRD. Mr. President, I have nothing. I thank the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I move in accordance with the order previously entered that the Senate now stand in recess until the hour of 9 a.m. on tomorrow.

The motion was agreed to; and at 6:44 p.m., the Senate recessed until Friday, September 24, 1982, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 1982:

DEPARTMENT OF JUSTICE

Charles H. Perenick, Sr., of Massachusetts, to be U.S. Marshal for the district of Massachusetts for the term of 4 years, vice James I. Hartigan, resigned.

Anthony Bertoni, of Michigan, to be U.S. Marshal for the eastern district of Michigan for the term of 4 years, reappointment.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. George E. R. Kinnear II, [redacted]/1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. John D. Johnson, Jr., [redacted]/1110, U.S. Navy.

IN THE AIR FORCE

The following-named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be lieutenant colonel

Crielly, William J., Jr., [redacted]
Hawley, Robert R., [redacted]
Hurt, John D., [redacted]
Lavine, Myer H., [redacted]
Paul, Rivers E., [redacted]
Rogerson, John N., [redacted]

MEDICAL CORPS

Acki, Armando, [redacted]
Ballista, Persio A., [redacted]
Bautista, Efigenio L., [redacted]
Chase, Lawrence J., [redacted]
Dodd, Lloyd E., Jr., [redacted]
Garramone, Stephen M., [redacted]
Gilstad, Dennis W., [redacted]
Hanna, Lotfy R., [redacted]
Holmes, Terry F., [redacted]
Jaceldo, Teodorico H., [redacted]
Nunes, Lyonio B., [redacted]
Perlas, Danilo S., [redacted]
Premsrirut, Somphool, [redacted]
Rajper, Mohammad A., [redacted]
Valencerina, Rodolfo R., [redacted]
Wood, William C., [redacted]

IN THE AIR FORCE

The following named officers for permanent promotion in the U.S. Air Force, under the appropriate provisions of chapter 36, title 10, United States Code, as amended, with dates of rank to be determined by the Secretary of the Air Force.

DENTAL CORPS

To be colonel

Huff, Thomas L., [redacted]
Kleinstub, Paul H., [redacted]
Kuhar, James R., [redacted]
Milnarik, Ronald M., [redacted]
Monske, Lane A., [redacted]
Rossell, Jay M., [redacted]
Sandusky, William J., [redacted]
Schutt, Norman L., [redacted]
Sekavec, Jay G., [redacted]
Spray, John R., [redacted]
Summitt, James B., [redacted]

Vanasma, Kenneth L., [redacted]
Young, Stephen L., [redacted]

MEDICAL CORPS

Bates, Gaylon M., [redacted]
Broadwell, Russell M., [redacted]
Broome, Larry G., [redacted]
Burner, William L., III, [redacted]
Cabatbat, Inocencio B., [redacted]
Chase, Walter F., Jr., [redacted]
Chronis, Alex G., [redacted]
Chua Ernesto L., [redacted]
Cole, Lonnie A., [redacted]
Cramer, Frederick S., [redacted]
Crawford, Elwyn D., [redacted]
Creasy, James K., [redacted]
Donaldson, Miriam E., [redacted]
Erickson, Gerald I., [redacted]
Fan, Warner J., [redacted]
Fishburn, Frederick B., [redacted]
Garcia, Raymond L., [redacted]
Gauvin, Lloyd D., [redacted]
Greene, Jerry W., [redacted]
Hathaway, Ralph E., [redacted]
Herrera, Christian Y., [redacted]
Howard, Cleve W., [redacted]
Jacobs, Robert L., Jr., [redacted]
Kennedy, Denis T., [redacted]
Kippel, Eugene J., [redacted]
Klint, Kenneth [redacted]
Koskinen, Kenneth R., [redacted]
Lamb, Johnny M., [redacted]
Lasher, John C., [redacted]
Legowik, John T., [redacted]
Malabanan, Francisco L., [redacted]
Martineztirado, Jose L., [redacted]
Mays, Garrett M., [redacted]
McDonald, Robert E., [redacted]
Merwin, Ronnie R., [redacted]
Nelson, Wilhma B., [redacted]
Nelson, Wilner N. J., Jr., [redacted]
Orille, Oscar P., [redacted]
Paxston, Donald K., [redacted]
Pettit, John W., Jr., [redacted]
Quinonesromeu, Edwin M., [redacted]
Richmond, David R., [redacted]
Roadman, Charles H., II, [redacted]
Russell, David A., [redacted]
Sanders, Lawrence T., [redacted]
Schmitz, George F., [redacted]
Schuknecht, Lowell A., Jr., [redacted]
Sigas, Ibis D., [redacted]
Suter, Darvin K., [redacted]
Walchner, Andreas M., [redacted]
Wang, George Y. M., [redacted]
Waring, William M., [redacted]
Wasserman, James M., [redacted]
Wheeler, Ralph A., [redacted]
Wright, Donald G., [redacted]

WITHDRAWAL

Executive nomination withdrawn from the Senate September 23, 1982:

James Harlan Stamper, of Missouri, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office, vice Irene Feagin Scott, which was sent to the Senate on July 12, 1982.