what the majority view is. Communities must be mobilized in a drive to counter demonstrations by the radicals. The Flag must be protected from these purveyors of hate. Committees must be organized to defend American principles.

The majority of Americans must know the truth about our vital interest in Vietnam and armed with this information, go to television stations and demand equal time. Write letters to newspaper editors, so they will know what Mr. Majority American is thinking.

Don't keep silent while the street mob takes control. Let us not lose by default. Let us not stand aside as this country goes the way of ancient Greece and Rome because its citizens were too indifferent, too apathetic, too slovenly to act.

Again, the V.F.W. cannot do the job alone, but the support of backbone groups and individuals everywhere must be enlisted to meet the challenge confronting this nation.

If the United States succumbs, mankind's last great hope will go aglimmering.

THE MIRACLE OF EVANGELINE

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 4, 1969

Mr. RARICK. Mr. Speaker, great fanfare is currently given to culture and cultural appreciation, but little note is taken of traditional American values.

From the News and Courier of Charleston, S.C., we have a story of community action in the traditional American spirit by free men who are dedicated to perpetuate their American heritage.

The "Miracle of Evangeline" is a short editorial relating how parents in a small Louisiana community have struggled to retain their God-given rights of authority and decision concerning their children. Now that the bureaucrats in government have federalized the once public schools, this community has converted a cattle auction barn into an independent center of education boasting an enrollment of some 2,500 ambitious and earnest young people—the type who seek and will suffer to attain an education.

Perhaps this story of daring, ingenuity, and community spirit has not been reported by the biased and prejudiced national press because they fear the example might serve as an inspiration to others. Citizens banding together to gain freedom at considerable personal sacrifice, should be news—but it is censored.

Every American who appreciates the struggle of our forefathers against tyranny will join in complimenting the Honorable Mayner Fontenot and his fellow evangelinians of Ville Platte, La., for their display of true American perseverance and courage. We wish them well, and commend them for keeping alive this flame of liberty, no matter how small, for their posterity knowing that it will blaze again across our land.

Mr. Speaker, I ask that the editorial from the News and Courier be made a part of my remarks so that all our colleagues may be reminded that people who are determined to be free and to plan their own destiny will do so, not because of Federal programs, Federal aid or someone else's ideas—but in spite of them:

[From the Charleston (S.C.) News & Courier, Dec. 2, 1969]

MIRACLE OF EVANGELINE

From a roundabout source we have obtained an account of a private school system established by citizens of Evangeline Parish in Louisiana. The system, including a high school housed in an abandoned cattle auction barn, is serving 2,500 pupils. The elementary department, housed in various buildings throughout the parish, has an enrollment of more than 1,800, and more than 600 are in the high school.

Mayner Fontenot of Ville Platte, La., has said in a letter, which was passed on to us, that little publicity has been given to this effort by citizens of a rural region. In a two-week period they contributed more than $300,000 to set up an alternative school system to the public schools, which had been forced by court order to comply with federal guidelines.

"It is my opinion," Mr. Fontenot wrote, "that something has transpired to prevent the television stations and larger newspapers from publicizing our efforts to retain our God-given right of choosing how to educate our children. Having only a small weekly newspaper in our area, I am reluctant to believe that these larger newspapers will be generous enough to print our efforts . . . We have set the pace for our state, and for myself, I wouldn't trade places with any other citizen of this nation."

A summary of the campaign to establish this "instant" school system—accomplished in about six weeks—is entitled "The Miracle of Evangeline—Fruit from Our Labor." It tells about volunteer work by carpenters, truck drivers, painters, plumbers, laborers, poor and wealthy, parents and children, who worked and planned.

"Dedicated teachers who had come forth to join us worked 13 hours per day," the document reports, "put their skills and experience in high gear to recruit teachers and to plan a system of education second to none. Realizing that they would have shortages of both equipment and facilities, they achieved magnitude with what they had . . . Our giant had then fed its appetite for learning . . . We will have unsurpassed school spirit in our academy and will be demanding of our teachers. And they will send out into our society true Americans dedicated to the survival of their country."

We pass along this story, which was news to us, for the information of readers and the inspiration of the public. Evangeline Parish is not a rich territory in money. Obviously it is populated by people who care, a force greater than money.

SENATE—*Monday, December 8, 1969*

The Senate met at 9:30 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Thou to whom we owe the gift of life and the privilege of work, let Thy truth inform our minds and Thy precepts guide our actions this day. Let no thought command us which might hinder communion with Thee, nor any word be uttered that is not meant for Thine ear. For the welfare of all the people, let the service of this place transcend prejudice and party. In personal life and corporate action, may we witness to that righteousness which exalteth a nation. So may we labor aware of Thy presence that our hearts may be at peace.

In the name of Him heralded by wise men and worshipped by kings. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, December 6, 1969, be dispensed with.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements be limited to 3 minutes with relation to the routine morning business to be transacted at the conclusion of the remarks of the Senator from Maryland (Mr. MATHIAS).

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

WAIVER OF CALL OF CALENDAR UNDER RULE VIII

Mr. MANSFIELD. Mr. President, I ask unanimous consent to waive the call of the calendar of unobjected-to bills under rule VIII.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for half an hour.

SENATE JOINT RESOLUTION 166—INTRODUCTION OF A JOINT RESOLUTION RELATING TO A FOREIGN POLICY REAPPRAISAL—VIETNAM AND BEYOND

Mr. MATHIAS. Mr. President, I send to the desk a joint resolution for appropriate reference.

The ACTING PRESIDENT pro tem-

pore. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 166), to repeal legislation relating to the use of the Armed Forces of the United States in certain areas outside the United States and to express the sense of the Congress on certain matters relating to the war in Vietnam, and for other purposes, introduced by Mr. MATHIAS (for himself and Mr. MANSFIELD), was received, read twice by its title, and referred to the Committee on Foreign Relations.

Mr. MATHIAS. Mr. President, today we face a new world. We have a new administration. Our Republican platform quotes Lincoln:

> The dogmas of the quiet past are inadequate to the stormy present. Let us disenthrall ourselves.

The resolution which I am introducing would contribute to the disenthrallment of our foreign policy.

Central to this disenthrallment will be disengagement from Vietnam. But withdrawal will be only the beginning. It will produce a vacuum, not a policy, and our current foreign policies are in disarray. At the same time as we prepare to Vietnamize the war, we discover that in a very real sense the war has Vietnamized American diplomacy.

This is no criticism of our present leaders. They are the inheritors, not creators, of this Asian thralldom that has allowed our foreign relations to suffer a kind of multiple sclerosis. But it is no partisan service to deny our current plight. It is virtually undeniable. The degree of enfeeblement is symbolized by the diminution of our foreign aid to a level less than one-third the size maintained during the Eisenhower administration when the need and absorptive capacity of the less-developed countries was less than it is today. It is further symbolized by a steady and severe decline in our foreign investment as a proportion of the gross national product. And it is dramatized by the pervasive belief in underdeveloped countries—as well as among many of our young people—that the United States is fundamentally imperialist.

Again, the current administration is not at fault. In fact, its proposal for tariff preferences for the less developed countries represents a perception of current realities more disenthralled than the approaches of previous Presidents. Nonetheless, our relations with the world need a complete and thoroughgoing reappraisal in view of the convulsive changes transfiguring the international scene.

Indeed, it is a measure of the change that it may well not be accurate in a sense, to speak any longer of the world arena as chiefly international. It may well be that the most important movements and institutions today are supranational and that to a great extent the nation-state is obsolescent, despite the continuing nationalist clamor. In all likelihood, for example, the emergence of the multinational corporation—and the tenfold increase in trade among the developed countries—will be seen in history as developments vastly exceeding the Vietnam conflict in real significance.

In the necessary reappraisal of policy, the U.S. Senate is constitutionally constrained to play an important role. It is with this fact in mind that I present the resolution I am introducing today.

There are five central points.

The first section of my resolution would repeal the mortmain of past congressional resolutions that have been interpreted as relinquishing broad authority to the Executive to intervene militarily around the world. All these resolutions, like the state of emergency proclamation, are based on an essentially negative view of the American world mission. In each instance, we imply the principle that military containment of international communism is the chief function of our foreign policy. The resolutions applied this principle in 1955 to Quemoy, Matsu, and Formosa; in 1957 to Lebanon and other Middle Eastern countries; in 1962 to Cuba and Latin America; and in 1964 to North Vietnam. All these resolutions were enacted without termination dates and are based on assumptions of dubious validity today.

Let us take the Middle Eastern resolution, for one example. It states that on Presidential determination, and at the request of the other nation, the United States is "prepared to use armed force to assist nations against armed aggression from any Communist-controlled country." Let us disenthrall ourselves. The United States remains willing to prevent aggression in the Middle East and to preserve the integrity of nations there not because potential aggressors in the region are "Communist controlled" but because we have solemn ties of treaty and sentiment in the region. Our commitment to Israel, moreover, does not derive from the fact that Egypt—a country that has virtually exterminated its domestic Communists—receives military assistance from the Soviet Union. We are resolved to defend Israel because the principles on which this country was founded and for which our sons have shed so much blood in World War II, and after, would be traduced by inaction in the face of a major threat to that valiant democratic state. Similarly, our support for Lebanon is based on positive affinities of ideology rather than on a false assumption that the other Arab States are part of an international Communist movement. Beyond these relationships, our desire for stability and peace in the region derives from its importance as a producer of oil. In this regard the already significant and now increasing Soviet petroleum investments and purchases in the area to some extent give the Soviet Union a similar interest in maintaining peace and stability. The joint resolution of 1957 thus embodies an essentially false notion of the trends and threats in the Middle East. It should be repealed; new policies should be debated; and if necessary a new resolution or other appropriate legislation enacted.

Similar points could be made in relation to the Cuban resolution of 1962. This enactment is based on an exaggerated notion of the capacity of Cuba to subvert other Latin American countries and on a correspondingly exaggerated notion of the usefulness of direct American intervention to suppress insurgencies in the region. Although the Cubans might wish they were so effective, it is a dire misconception to suppose that the widespread unrest in Latin America is fomented from Cuba and under some circumstances might be ended by attacking that country.

The Formosa resolution, enacted in 1955, is outdated by the remarkable success of the Nationalist Chinese in arming themselves and fortifying their island redoubts. Unless the Communist Chinese use nuclear weapons, the Nationalist army and air force are more than capable of taking care of themselves. In any case, Congress should not relinquish its authority to participate at the time in any decision by the United States to go to war with Communist China in defense of Quemoy and Matsu.

Though it is the most recent, the Tonkin Gulf resolution is the most questionable of all. I will not here reiterate all the arguments which have surrounded that precipitate enactment. Suffice it to say that in response to a confused exchange of fire in the Tonkin Gulf, the resolution apparently authorized an overwhelming and substantially ineffectual extension of the Vietnam war into the north through bombing of an intensity exceeding even that undertaken against Germany during World War II. As long as the resolution remains on the books, it may be interpreted as authorizing further attacks. Yet American public opinion would not accept such a drastic step, nor would the Congress acquiesce in it. I therefore believe we should repeal the Gulf of Tonkin resolution.

The second section of my proposal relates to perhaps the single most important of all the cold war enactments, promulgated by President Truman on December 16, 1950, without congressional endorsement or ratification. This was the Presidential proclamation declaring a state of national emergency at the time of the outbreak of the Korean conflict. That state of emergency—with its myriad derivative provisions—remains in effect. My resolution would create a special committee comprising six members of each body of Congress including three from each Foreign Relations and Foreign Affairs Committee. It would wait on the President to advise him on the matter of termination of the state-of-emergency proclamation and report back to the Congress before the end of the 91st Congress. The Constitution did not envisage a state of emergency to be the normal state of affairs. As we enter the seventies, we should reappraise the domestic requirements of our inevitable embroilment in world tensions and difficulties.

It should be clearly understood that by proposing repeal of these resolutions and termination of the Korean state of emergency, I do not mean to advocate a new isolationism for the United States. On the contrary, I believe that the Vietnam war has already given American policy elsewhere an isolationist cast. And I think that unrealistic or militaristic postures of commitment discredit the kind of deep and responsive world involvement which we will have to maintain in the coming decades of change.

The world is moving from its present stage of archaic international conflicts to new forms of global cooperation and competition shaped by changing social, economic, and technological realities.

If we wish to influence these developments, we must first understand them—we must not hide behind dogmas proclaimed in the 1950's. War is most often a product of diplomatic failure. In the future, resort to arms will be more likely if we dogmatize rather than disenthrall our diplomacy. We must develop a modern diplomacy adaptable to current realities.

I am fully aware that it may become necessary in the future for the United States to employ military force in fulfilling treaty commitments. If we do, however, it will be imperative that we have a clearer understanding of international politics than was manifested in Vietnam. The slogans of the fifties, rigidly applied to an underdeveloped country, will never again suffice to persuade our young people to risk their lives in war. No event in recent history has so reduced the flexibility of American power in the international arena—so discredited the military among our youth—as the conflict in Vietnam.

If the United States is to develop foreign policies suitable for the seventies, worthy of the support of those who have been estranged from our policies in the sixties, we must begin to develop them now. I suggest that we start by clearing away the debris of cold war dogmas—and resolutions—that encumber and stultify our policies today. My present legislation—the resolution introduced today—would repeal those four resolutions as of the end of the 91st Congress a year from now.

The last three sections of my resolution deal specifically with the necessity of disengagement in Vietnam. They are designed to give congressional corroboration and specific substance to the framework of the troop withdrawal plan announced by the President. The time has come to formally replace the Johnson plan with the Nixon plan. Section 3 would declare support for the President's efforts to achieve a political solution and would endorse his plan for accelerated withdrawal of all American forces from South Vietnam. This section also urges the President to take appropriate action to seek creation of an international peacekeeping force under United Nations or other appropriate international auspices. I have urged creation of such a force since 1962. The force is still needed now to prevent further hostilities in the country and to prevent reprisals against any of its people after the U.S. withdraws.

Section 3 is based on the proposition that no plan for American military withdrawal will end the war unless the present South Vietnam Government adopts a plan for its own political withdrawal. Central to such a plan is the development of political processes leading to creation of a durable political order embracing all groups in South Vietnam. The Thieu-Ky regime was chosen by a little over one third of the vote in elections restricted to areas controlled by the military and to candidates accepted by them. The regime has since narrowed its base of support by replacing a civilian Prime Minister with a military associate. Even supporters of the Thieu-Ky regime allege it would be unable to prevent massacres after we leave.

Under my resolution Congress would urge leaders from all religious, political, and ethnic groups in the country to initiate serious discussions designed eventually to produce a new broadly based government—a government that can survive our departure and prevent resumption of the conflict. Needless to say, in order for meaningful political discussions to occur, the Thieu-Ky regime would have to release from prison those leading political figures incarcerated essentially for advocating or attempting such discussions.

Section 4 is designed in part to provide additional incentives for the success of the Paris negotiations, in part to fulfill the humanitarian mandate of the American world role. This section would urge the President to invite other nations to participate with the United States in the formulation of a multilateral plan for the reconstruction of war-ravaged areas in Southeast Asia. It also asks the President to submit to Congress as soon as possible any legislation needed to carry out the plan.

Alexis de Tocqueville once said:

> The most important time in the life of a country is the coming out of a war.

The final stages of the Korean war were marred by bitterness and recriminations. Let us hope that we can come out of the Vietnam war and come together to face with realism and responsibility the new challenges of the 1970's.

In a sense, today the United States, in fact, can be considered as emerging from three wars: From the Vietnam war, from the cold war, and perhaps to some extent from the arms race. The transition will be difficult. In making it, I say again, let us disenthrall ourselves. I hope this resolution will represent a small step at least toward a proclamation of peace.

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

Mr. MATHIAS. I yield.

Mr. SCOTT. Mr. President, I congratulate the distinguished Senator from Maryland for his excellent, thoughtful, and concerned presentation, for his openmindedness, for presenting views which warrant the most thoughtful consideration, and for expanding the dialog on the war in a constructive and helpful way.

I would not want to be misunderstood. I have been for broad support of what the President stands for.

I know that we have only one Commander in Chief, one negotiator. But the Senator has suggested certain avenues of approach to be followed not only during the war but also America's role in the postwar period. The Senator was editorially commended for this very wise approach which he is giving toward the Vietnam problem.

I hope that the ensuing dialog will be on the high level which has been postulated here by the Senator from Maryland.

It is a good thing that we examine our posture, that we see if we cannot do it better, and that we seek for ways by which we can improve the prospects for peace.

The Senator has made a most valuable and encouraging contribution. I again express my appreciation for his presentation of these views.

Mr. MATHIAS. Mr. President, I thank the distinguished Senator from Pennsylvania for his very generous comments. I point out that I only follow his own example in trying to expose ideas for consideration in the hope that out of that consideration a discussion and debate on policies worthy of being followed may be pursued.

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

Mr. MATHIAS. I yield.

Mr. COOPER. I join the distinguished Senator from Pennsylvania and, I am sure, also the Senator from Montana in paying tribute to the distinguished Senator from Maryland, upon his excellent recommendation.

The direct and forthright approach of the Senator's remarks go to the core of the problem and the danger we face in becoming involved in a war when our chief, deep interest is not at stake.

The agreements were entered into years ago. We are in a different situation in view of the circumstances that exist today.

At the time these agreements were entered into, there was great fear of a Communist surge in both Asia and Europe. It was necessary to enter into treaties to assure the other countries that they would have our support, in the belief that our security was involved.

I do not think that situation exists today.

Like the Senator from Pennsylvania, I support the President in his program in Vietnam. However, I think it is necessary, as the Senator says, that we disenthrall ourselves from the treaties that we entered into years ago.

They are uncertain in stating the type of aid we will provide. Each one calls for aid in accord with the constitutional process. But they do not define the constitutional process. And "constitutional process" has been taken in the past, as in Southeast Asia, particularly, to be a decision by the Executive.

The Senator's proposal has great merit. As the Senator knows, the subcommittee of the Senator from Missouri (Mr. SYMINGTON) is now examining our commitments around the world. We have heard a great deal of testimony on commitments in various countries, which were unknown by the Congress or the people.

The Senator has gone to the heart of the problem. I am sure that his proposal will receive great support. And I congratulate him for what he has done today.

Mr. MATHIAS. Mr. President, I am very grateful to the Senator from Kentucky for his remarks. I am very much encouraged by his comments.

His own sensible and thoughtful leadership in this area over the years has been a bulwark for the case to be made. I hope the Senator will continue to make his contributions.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the Senator may be permitted to continue for an additional 10 minutes.

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

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

Mr. MATHIAS. I yield.

Mr. MANSFIELD. Mr. President, I join the distinguished Republican leader of the Senate and the distinguished senior Senator from Kentucky in what they have just had to say about the remarkably well thought out, temperate, and sound speech which the distinguished Senator has just made.

I am very much interested, very much intrigued and very much impressed with the proposal suggested by the distinguished Senator from Maryland (Mr. MATHIAS). As I understand his resolution, what he is doing is, in effect, stating that the Congress should have a hand in bringing about the ending of the war in Vietnam and that the responsibility should not be continued to be placed in the hands of the President alone. That was the interpretative effect of the administration at the time of the Tonkin resolution, an interpretation with which I thoroughly disagreed at its inception and disagree with just as much today.

The distinguished Senator from Maryland is not seeking to repeal the Tonkin Gulf resolution alone but all the other resolutions which have been passed by the Congress in haste with little discussion and practically no study and, certainly, very little sound interpretation over the years since the Second World War. I refer, for example, to the Formosan resolution, the Mid-East resolution among the better known as examples of what should perhaps not be in existence now and, therefore, should be looked into to see if any validity remains for their retention.

The restudy of all these resolutions would be a most worthy endeavor for the Congress to undertake because, unless the Congress does so, they remain on the books and as long as they remain on the books, they give any President unprecedented power.

In addition, Senator MATHIAS supports President Nixon's efforts "to achieve a political solution in Vietnam" and he also asks that the Congress declare itself in favor of "accelerated withdrawal of all U.S. forces in South Vietnam" and I agree.

These are worthy objectives and they call for a stepup in U.S. troop withdrawal. May I say, incidentally, that the President is exceeding his 60,000 withdrawal rate set for no later than December 15 by continued withdrawal above and beyond that figure. I commend him for this unpublicized action. It would be my hope, Mr. President, that the Congress would be able to work with the President to bring about a speedy end to the tragic war in Vietnam, a withdrawal of all troops as soon as possible and a settlement on the basis of which we would be able to get out of Southeast Asia on a lock, stock, and barrel basis.

Mr. President, it is my practice to give as much support as I can on matters of foreign policy to an incumbent President. Whether Democrat or Republican, a President's responsibilities are very heavy in these matters and he carries them on behalf of the entire Nation. I have tried, therefore, to present my personal views to the President in private and in public, to give him the benefit of any doubts which I may have on a particular course of policy.

That has been my practice ever since I became majority leader of the Senate. It was followed with President Kennedy and President Johnson. It is being followed with President Nixon. However, even as the President has his responsibilities, I have mine as a Senator of Montana and of the United States. When it is incumbent on me, in my judgment, to express my views on an issue, in public, I must do so in the discharge of the duties which are vested in my by the Constitution.

With respect to the Tonkin Gulf resolution, I joined with all Members of the Senate present, except two, in voting for the measure. I did so because President Johnson asked for the resolution to provide a display of Government unity in an effort to prevent the initial U.S. military involvement from widening. Other Members were similarly persuaded despite personal and long-standing doubts as to any U.S. military involvement on the Southeast Asian mainland. It was not my understanding, then, nor of any Member of the Senate so far as I am aware that a blank check was being written for an involvement of whatever depth or extent the State and Defense Departments decreed. When it appeared that the resolution was being interpreted as a blank check, Members of the Senate began increasingly to express their opposition to that interpretation and to the tragic U.S. involvement in the war which stemmed from it.

That there are now grave reservations about the resolution has nothing to do with partisan politics. The reservations are expressed by Members of both parties. On my part and on the part of other Democratic Members of the Senate, these reservations began to be expressed during a Democratic administration.

One can never reconstruct a situation precisely as it was several years ago, and what has been done cannot be undone. However, I do know that I supported the Tonkin Gulf resolution in 1965 because it was what President Johnson had sought as a way of preventing our deep military involvement, and it obviously failed in its purpose. I would be happy, indeed, to consider repeal of this resolution if President Nixon or Congress, or both together, were to request it as a step toward shortening the path to peace—in the words of the distinguished Senator from Maryland, making a small step in that long-sought direction.

Mr. President, it is time to break with the past, to face up to the present, and to prepare for the future. This, the Senator from Maryland seeks to do, and I commend him for his initiative and ask that I be allowed to join him as a cosponsor. The Senator has come up with what could be the ideal resolution and has pointed the way to peace for all of us. I congratulate him for the statement he has made this morning. He has earned the thanks of the Senate, the people of this country, and the administration.

Mr. MATHIAS. Mr. President, I am more than grateful—I am very humble—in the light of the generous remarks of the distinguished majority leader.

I think that both he and I in this matter want to look forward to better days. In this resolution we are not trying in any sense to conduct a witch hunt on the mistakes of the past, but we are trying to look forward to a better conduct of foreign policy in the future.

As the distinguished Senator from Kentucky has said, these various resolutions were the accumulation of years. They are like barnacles on a ship's bottom which are impeding our progress into the future, and we want to clean the hull and move forward.

I am very grateful to the distinguished majority leader for offering to become a cosponsor, and I appreciate his support and encouragement in this matter.

Mr. MANSFIELD. Mr. President, the gratitude and thanks of the Senator from Montana go out to the distinguished Senator from Maryland for the initiative he has just shown.

I ask unanimous consent to have my name added as a cosponsor of the Mathias resolution.

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

ORDER OF BUSINESS

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

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

The bill clerk proceeded to call the roll.

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

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

SERVICE OF BUREAU OF INDIAN AFFAIRS TEACHERS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 562, S. 2619.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 2619) to amend section 5723(b) of title 5, United States Code, relating to length of service required by teachers in Bureau of Indian Affairs schools when travel and transportation expenses are paid to first post of duty.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5723(b) of title 5, United States Code, is amended by inserting after the word "months" the words ", or for one school year

if selected for a teaching position in the schools operated by the Bureau of Indian Affairs,".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–567), explaining the purposes of the measure.

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

PURPOSE OF MEASURE

The purpose of S. 2619, which was drafted and submitted by the Department of the Interior, is to reduce to a school year the time teachers appointed to positions in schools operated by the Bureau of Indian Affairs must agree to serve without loss of travel and transportation expenses. Present law, set forth in title 5 United States Code 5723(b), requires that Federal agencies may pay travel and transportation expenses of new appointees only if the appointee agrees to serve and serves a full 12-month year, unless separated by reasons beyond his control for reasons acceptable to the hiring agency.

In the case of the Bureau of Indian Affairs teachers, as with teachers generally, the school year is usually of approximately 9 months duration—from late August or early September through May or the first part of June. Most teachers have no immediate teaching functions in the interval between the close of one school year and the beginning of another. Yet under present law, teachers who may wish to resign after 1 year nevertheless must remain at their posts until the beginning of the following school year in order not to have to repay their travel and transportation expenses.

Many Bureau of Indian Affairs schools are in relatively remote areas that are difficult of access.

The present situation creates many problems for the Bureau as well as for the teacher. If a teacher is not going to continue his employment for another school year, it is to the Government's interest and advantage to know this by the end of the school year in order to assure that a replacement is recruited and on duty by the start of the next school year. Severe administrative problems occur when an employee resigns after the beginning of the school year, the severity being further compounded when an employee waits until the completion of his 12 months of service to submit his resignation.

Enactment of the proposed bill would alleviate this situation by relieving teachers who complete a school year of service of any obligation to repay travel expenses to the Government, regardless of the reason for their resignation. The Bureau schools would benefit through some savings in salaries and would better fulfill its responsibilities to Indian children as a result of knowing sufficiently early in the year the vacancies that it will have to fill and thus be able to recruit quality teachers.

The measure involves no expenditure of Federal funds; rather, as stated, some savings would be realized.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 565, 566, 567, and 568.

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

FORT DONELSON NATIONAL BATTLEFIELD

The bill (H.R. 13767) to authorize the appropriation of funds for Fort Donelson National Battlefield in the State of Tennessee, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–570), explaining the purposes of the measure.

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

BACKGROUND

Fort Donelson was originally authorized by the Congress as a national military park in 1928 (45 Stat. 367; 16 U.S.C. 428 et seq.). In 1960 (Public Law 86–738; 74 Stat. 875) it was redesignated as a national battlefield and enlarged to include not more than 600 acres.

An appropriation of $226,000 was authorized for the acquisition of the additional lands and interests in land.

Pursuant to this authority the entire amount authorized has been appropriated and expended. Not unlike other situations, the original land acquisition cost estimates were too low; consequently, approximately 87 acres within the park boundaries remain unacquired at this time, but this legislation does not attempt to deal with the unacquired lands.

NEED AND COST

H.R. 13767 authorizes the appropriation of $12,721.25 plus interest, as provided by law, to provide for the payment for deficiency judgments rendered against the United States by the U.S. District Court for the Middle District of Tennessee, Nashville Division. When the declarations of taking were filed with respect to the 72.3 acres involved, $10,660 was deposited in court as the estimated fair market value of the properties. At that time, title vested in the United States and it became liable for their fair market value as determined by the court. Inasmuch as the United States is now obligated to satisfy the judgments incurred in these actions, the enactment of H.R. 13767, as amended, is essential. Until satisfied, interest on the judgments will continue to run.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 13767.

INDEPENDENCE NATIONAL HISTORICAL PARK

The bill (S. 2940) to amend the act of June 28, 1948, as amended, relating to the acquisition of property for the Independence National Historical Park was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2940

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 6 of the Act entitled "An Act to provide for the establishment of the Independence National Historical Park, and for other purposes", approved June 28, 1948 (62 Stat. 1061, as amended; 16 U.S.C. 407r), is further amended by striking out "$7,950,000" and inserting in lieu thereof "$11,200,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–571), explaining the purposes of the measure.

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

PURPOSE

The purpose of S. 2940 is to provide an increase in the funds authorized to be appropriated for Independence National Historical Park in Philadelphia, Pa. The new funds, if appropriated, will be used to acquire the last remaining tract of commercial land within the boundaries of the park.

NEED

Creation of Independence National Historical Park was provided for by an act of Congress passed in 1948. Since that time all the property authorized to be acquired within the three city blocks that make up what is known as project A, as well as the property within other units of the park, has been acquired either by the United States or by the State of Pennsylvania, the city of Philadelphia, or private nonprofit organizations, with one exception. The exception is the parcel with which S. 2940 is concerned. This parcel is occupied by three buildings—one of them a 16-story office building, the two others small structures—which, the committee was advised, are completely out of keeping with the historic structures in the remainder of Independence National Historic Park—Independence Hall, Carpenters Hall, Philosophical Hall, Library Hall, the First and Second Banks of the United States, and others.

In April 1967, the Reliance Insurance Co., the owner of the three buildings on the parcel to be acquired under S. 2940 gave the National Park Service an 18-month option to purchase its holdings for $3,250,000. The Park Service testified that it was a figure satisfactory to the Service based on its own appraisal.

Independence National Park attracted 2,750,000 visitors in 1966. About 7 years from now the bicentennial of the Declaration of Independence will be celebrated and it will center on this park. Estimates are that as many as 6 million visitors will attend the various events that will be held. It is the hope of the Park Service that the modern buildings which intrude on the historical scene can be acquired and demolished and that the area can be landscaped before that time in order that as authentic a picture as possible of the scene as it was at the time this country declared its independence will be available.

The Reliance Insurance Co.'s option will expire in January of 1970. The committee was assured, however, by an officer of the company—its vice president and general counsel—that he will recommend to the board of directors that it be extended a reasonable time if this is necessary to enable S. 2940 to be enacted and appropriations to be obtained which will allow the purchase to be consummated. He stressed, however, that the company has been kept waiting for some time now, that it has moved its own offices to a different location, that it has felt unwarranted in making improvements in the structures that ought to be made if it is to be leased out on a long-term basis, and that it has, accordingly, been granting only short-term leases. The committee sympathizes with the position in which the company finds itself. It also appreciates the difficulties that would ensue if the option were allowed to expire without being exercised, particularly those which would stem from the loss of an opportunity to acquire at what appears to be a very reasonable price.

COST

The cost of acquiring the land and buildings with which S. 2940 is concerned is $3,250,000. The cost of demolishing the buildings and landscaping the property is estimated at $580,000. This cost will be partially offset by revenues derived from presently outstanding leases.

CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK

The Senate proceeded to consider the bill (H.R. 9163) to authorize the disposal of certain real property in the Chickamauga and Chattanooga National Military Park, Ga., under the Federal Property and Administrative Service Act of 1949, which had been reported from the Committee on Interior and Insular Affairs, with an amendment on page 1, line 6, after the word "property", strike out "under that Act" and insert "subject to the retention by the Department of the Interior of a reversionary interest in perpetuity with respect to any portion of such property not utilized for educational purposes under that Act,".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–572), explaining the purposes of the measure.

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

BACKGROUND AND NEED

The Chickamauga and Chattanooga National Military Park is located in the States of Georgia and Tennessee. It was originally established in 1890; however, it was not administered as a part of the National Park System until 1933. The tract of land (consisting of approximately 155.46 acres) involved in H.R. 9163 was acquired by the War Department in 1898, but its historic association with the Civil War battle which took place in the area is remote and its physical location in relation to the main portion of the park is tenuous—it is merely an appendage connected with the park at a common corner.

Under existing law, lands reserved for, or dedicated to, national park purposes are not subject to the usual disposal procedures for surplus Federal properties. For this reason, H.R. 9163 authorizes the Secretary of the Interior to designate the lot (specified in the bill) as excess property so that it may be utilized or disposed of by the Administrator of General Services in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. The committee was advised that Catoosa County, Ga., is most interested in acquiring the property for the development of an educational complex.

AMENDMENT

On page 1, line 6, strike out "under that Act" and insert "subject to the retention by the Department of the Interior of a reversionary interest in perpetuity with respect to any portion of such property not utilized for educational purposes under that Act,".

PURPOSE OF AMENDMENT

Testimony before the committee indicated that the lands involved were not needed for park purposes or by any other Federal agency, and that the State and local governments wanted it for the purpose of developing an educational complex. The amendment would assure the use of these lands for educational purposes and would protect against any future proposals that would permit them to fall into private ownership. The adoption of the reversionary amendment would protect the government against such a possibility.

COST

No Federal expenditures are contemplated under the terms of H.R. 9163 other than the usual administrative costs associated with the disposal of excess Federal properties.

ELIMINATION OF CONSTRUCTION DETAILS ON PASSENGER VESSELS

The Senate proceeded to consider the bill (H.R. 210) to eliminate requirements for disclosure of construction details on passenger vessels meeting prescribed safety standards, and for other purposes, which had been reported from the Committee on Commerce with an amendment strike out all after the enacting clause and insert:

That section 4400 of the Revised Statutes, as amended (46 U.S.C. 362), is amended—

(1) by inserting in the second sentence of subsection (b) between the words "information" and "as" the following: ", and shall specify the registry of any vessel named,", and

(2) by inserting between the second and third sentences of subsection (b) thereof the following new sentence: "The passenger notification and promotional or advertising literature inclusions required by this subsection, except the inclusion of the country of registry of the vessel, do not apply to voyages by vessels meeting the safety standards prescribed in subsection (c) of this section.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–573), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to amend section 4400 of the Revised Statutes, as amended (46 U.S.C. 362), to eliminate the requirement to publicly disclose compliance with safety standards where such vessels meet prescribed safety standards and to require that the registry of any vessel named in promotional literature or advertising be specified therein.

BACKGROUND OF THE LEGISLATION

In 1966, the Congress enacted Public Law 89–777, which required all ships to meet certain minimum fire, safety, and financial standards, and to include a statement in all advertising of ships sailings as to the safety standards with which the vessel complied or did not comply. This requirement for notice of compliance with safety standards was reasonable and desirable at the time the law was passed because safety standards did not apply uniformly to all cruise ships, foreign and domestic. Vessel owners, however, were required to alter their vessels to meet the prescribed requirements by November 2, 1968. Since that date all passenger vessels, both U.S. and foreign flag, sailing from U.S. ports, with U.S. nationals, must meet the standards set forth in the International Convention for Safety of Life at Sea of 1960, as modified by the amendments proposed by the 13th session of the Maritime Safety Committee of the Intergovernmental Maritime Consultative Organization (IMCO), contained in annexes I–IV of the note verbale of the Secretary General of that organization, dated May 17, 1966. The net result at this time is that passenger vessels using U.S. ports must conform to these fire and safety standards. The Coast Guard enforces these requirements.

NEED OF THE LEGISLATION

Thus, since November 2, 1969, no vessel, American or foreign flag, can sail from an American port without complying with the convention safety standards and, because of present uniform safety standards, the requirement to disclose compliance with particular safety requirements can be eliminated. There is, therefore, no longer any reason for disclosure of such compliance at the time of booking, nor for the advertising requirements.

Testimony during the hearing on this bill indicated that during the period these disclosure requirements have been in effect, there has been a pronounced change in the pattern of promotion for steamship passenger transportation and cruises. Travel agents, who have been counted on to produce a majority of the travel business, either cannot afford or will not incur the additional cost of purchasing more advertising space to include the required safety text, nor will they sacrifice promotional text for a description of safety standards. Advertising by these agents consequently has dropped appreciably. The disclosure requirements have also proven unduly expensive and burdensome where the use of radio and television is involved and the result has been that passenger vessels have been virtually precluded from effectively using those media. Since the safety notice requirements have proven burdensome and since the interest of safety is little served by the compulsory recitation that mandatory standards have in fact been met, H.R. 210 would simply eliminate the need for the safety notice in advertising of ships which meet the required standards. A witness from the Coast Guard assured the committee that passage of the bill would in no way adversely affect passenger safety.

THE AMENDMENT

The House of Representatives amended H.R. 210 as it was originally introduced in that body in order to require that advertising of passenger ships include notice of the registry of the ship. However, the technical form of that amendment created a possible ambiguity as to what agency should administer the requirement of disclosure of registry and as to what penalties would attach to failure to comply. The amendment adopted by the Committee clarifies those ambiguities and authorizes the Secretary of the Department in which the Coast Guard is operating to promulgate regulations with respect to disclosure of registry. However, since the principal purpose of H.R. 210 is to remove costly and burdensome restrictions on promotion of travel by passenger ship, it is not intended that the statement as to the vessel's registry be accomplished in any particular manner, so long as the promotional literature or advertising includes the required specification as to the country of the vessel's registry in a manner which reasonably discloses the information.

COST OF THE LEGISLATION

The bill will not result in any increased cost to the Government.

CONCLUSION

This bill should be of some assistance to our ailing U.S.-flag passenger fleet and will eliminate an unnecessary burden on passenger vessel operations.

ORDER OF BUSINESS

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on management of the Project One Hundred Thousand Program, Department of the Army, dated December 8, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on need to improve project transition management by the Department of Defense, dated December 8, 1969 (with an accompanying report); to the Committee on Government Operations.

FAMILY PLANNING SERVICES AMENDMENTS OF 1969

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Public Health Service Act to provide for special project grants for the provision of family planning services and related research, training, and technical assistance (with an accompanying paper); to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 154. Joint resolution to authorize and request the President to proclaim the month of January of each year as "National Blood Donor Month" (Rept. No. 91–578).

By Mr. HRUSKA, from the Committee on the Judiciary, with an amendment:

H.J. Res. 10. Joint resolution authorizing the President to proclaim the second week of March, 1970, as Volunteers of America Week (Rept. No. 91–579).

By Mr. MOSS, from the Committee on Interior and Insular Affairs, with amendments:

S. 1148. A bill to amend the Revised Organic Act of the Virgin Islands (Rept. No. 91–580).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

H.R. 9233. An act to amend title 5, United States Code, to promote the efficient and effective use of the revolving fund of the certain functions of the Commission, and for Civil Service Commission in connection with other purposes (Rept. No. 91–581).

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

H.R. 13000. An act to implement the Federal employee pay comparability system, to establish a Federal Employee Salary Commission and a Board of Arbitration, and for other purposes (Rept. No. 91–582).

By Mr. YARBOROUGH, from the Committee on Labor and Public Welfare, with amendments:

S. 2523. A bill to amend, extend, and improve certain public health laws relating to mental health, and for other purposes (Rept. No. 91–583).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 11503. An act for the relief of Wylo Pleasant, doing business as Pleasant Western Lumber (now known as Pleasant's Logging and Milling, Inc.) (Rept. No. 91–585); and

S. Res. 239. Resolution to refer S. 2807, together with all accompanying papers, to the Chief Commissioner of the United States Court of Claims (Rept. No. 91–584).

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Henry J. Tasca, of Pennsylvania, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Greece.

BILLS AND A JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. PACKWOOD (for himself, Mr. MURPHY and Mr. HATFIELD):

S. 3218. A bill to provide a method for paying costs of fires caused without negligence in connection with national forest timber sales operations; to the Committee on Agriculture and Forestry.

(The remarks of Mr. PACKWOOD when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. JAVITS (for himself, Mr. DOMINICK, and Mr. PROUTY):

S. 3219. A bill to amend the Public Health Service Act to provide for special project grants for the provision of family planning services and related research, training, and technical assistance; to the Committee on Labor and Public Welfare.

(The remarks of Mr. JAVITS when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. MATHIAS (for himself and Mr. MANSFIELD):

S.J. Res. 166. Joint resolution to repeal legislation relating to the use of the Armed Forces of the United States in certain areas outside the United States and to express the sense of the Congress on certain matters relating to the war in Vietnam, and for other purposes; to the Committee on Foreign Relations.

(The remarks of Mr. MATHIAS when he introduced the joint resolution appear earlier in the RECORD under the appropriate heading.)

S. 3218—INTRODUCTION OF THE OPERATIONS FIRE FUND ACT—METHOD OF COMPENSATING FOR COSTS OF FOREST FIRES CAUSED WITHOUT NEGLIGENCE

Mr. PACKWOOD. Mr. President, today I introduce on behalf of myself and the Senator from Oregon (Mr. HATFIELD) and the Senator from California (Mr. MURPHY), a bill to provide a method for paying costs of fires caused without negligence in connection with national forest timber sales operations. So-called "operations fires" are fires which occur without negligence in the harvest of timber on national forest lands.

One of the many problems faced by the timber industry is involved here. Fires totally without negligence on the part of the operator are occasionally started by friction of logs rubbing on the forest floor, or when metal strikes metal or rock. These fires usually occur where generally great care is exercised by the operator, but the control and cost of the fire can be an overwhelming burden for one operator.

Of course, where fires are caused with negligence, then the responsibility lies with the operator, but I am speaking specifically about fires caused without negligence by the operator.

The Operations Fire Fund Act which I propose, and which has been introduced also on the House side, is designed to meet this problem by spreading the risk of these nonnegligent fires to the entire industry, providing an incentive for care and meeting the entire cost of suppressing such fires from deposits by operators.

In section 2 of this proposed act a fund would be created from deposits by timber purchasers, based on cut of national forest timber. A limit placed on the amount of the fund to meet the total cost of suppressing operations fires over the past 3 years, with excess funds transferred to miscellaneous receipts of the Treasury.

Section 4 should establish a board to fix the rates of deposits into the fund by regions, review expenditures from the fund, and establish additional amounts timber purchasers must pay toward the initial cost of suppression. It is anticipated that in the western regions the purchased would assume the obligations for the first $2,500 in suppression cost for each operations fire. The remaining cost of suppression would be met fully through the operations fire fund.

I believe this bill will provide a fair and inexpensive method to meet the problems of suppressing the nonnegligent fires occurring from time to time in the harvest of timber from national forests.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 3218) to provide a method for paying costs of fires caused without negligence in connection with national forest timber sales operations, introduced by Mr. PACKWOOD, for himself and other Senators, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

ADDITIONAL COSPONSORS OF BILLS

S. 2674

Mr. COOK. Mr. President, I ask unanimous consent that, at the next printing, my name be added as a cosponsor of S. 2674, to amend title 37, United States Code, to provide for the procurement and retention of judge advocates and law specialist officers for the Armed Forces.

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

S. 2852

Mr. INOUYE. Mr. President, I ask unanimous consent that, at the next printing, the name of my colleague, the gentleman from Hawaii (Mr. FONG), be added as a cosponsor of S. 2852, to amend the Shipping Act of 1916, as amended, to require common carriers by water in the domestic offshore trade to obtain a certificate of convenience and necessity, and to require contract carriers by water in such trade to obtain a permit.

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

TAX REFORM ACT OF 1969—AMENDMENTS

AMENDMENT NO. 401

Mr. ERVIN submitted an amendment, intended to be proposed by him, to the bill (H.R. 13270) to reform the income tax laws, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 403

Mr. BELLMON submitted an amendment, intended to be proposed by him, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 407

Mr. TOWER. Mr. President, I send to the desk an amendment to be printed, along with an explanation of the amendment and a letter from the Department of the Treasury supporting it.

I submit the amendment on behalf of the Senator from Alabama (Mr. SPARKMAN) and myself. It would take the place of current amendments Nos. 297 and 298. For the benefit of Senators interested in those amendments, this is a new compromise amendment and a letter from the Treasury Department supporting it.

I ask unanimous consent that an explanation of the amendment, together with the letter of support from the Department of the Treasury be printed in the RECORD.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment, explanation, and letter will be printed in the RECORD.

The amendment (No. 407) is as follows:

Page 387, strike out lines 17 through 25 and lines 1 through 7 on page 388 and insert in lieu thereof the following:

"(4) USED SECTION 1250 PROPERTY.—In the case of section 1250 property acquired after July 24, 1969, the original use of which does not commence with the taxpayer, the allowance for depreciation shall be determined in the following manner:

"(A) in the case of such section 1250 property which is residential rental housing (as defined in paragraph (2)(B) having a remaining useful life on the date of acquisition of 30 years or more, the allowance for depreciation under this section shall be limited to an amount computed under any of the methods provided for in paragraph (1);

"(B) in the case of such section 1250 property which is residential rental housing (as defined in paragraph (2)(B)) having a remaining useful life on the date of acquisition of between 20 and 30 years, the allowance for depreciation under this section shall be limited to an amount computed under—

"(i) the straight line method,

"(ii) the declining balance method, using a rate not exceeding 125 percent of the rate which would have been used had the annual allowance been computed under the method described in clause (i), or

"(iii) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), not including—

"(1) the sum-of-the-years digits methods, or

"(2) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(C) of this subsection; and

"(C) In the case of such section 1250 property which is either residential rental housing (as defined in paragraph (2)(B)) having a remaining useful life on the date of acquisition of less than 20 years, or which does not qualify as residential rental housing, the allowance for depreciation under this section shall be limited to an amount computed under—

"(i) the straight line method, or

"(ii) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), not including—

"(1) any declining balance method,

"(2) the sum-of-the-years digits method, or

"(3) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(c) of this subsection."

Page 393, strike lines 1 through 7 and insert the following:

"(iii) in the case of residential rental housing (as defined in section 167(j)(2)(B) other than that covered by clauses (i) and (ii) or in the case of rehabilitation expenditures (as defined in section 167(k)(3)) allowed with respect to section 1250 property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 60 full months; and

"(iv) in the case of all other section 1250 property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held for 120 full months."

Page 393, line 8, strike out "Clauses (i), (ii), and (iii)" and insert in lieu thereof; "Clauses (i) and (ii)."

The explanation, presented by Mr. TOWER, is as follows:

EXPLANATION OF THE TOWER-SPARKMAN AMENDMENT

This amendment deals with real estate depreciation on any existing residential buildings which are conveyed after July 24, 1969. It also concerns the tax consequences of a sale or disposition of all types of property which involves a sale price above basis.

PRESENT LAW

(A) Depreciation of New Improvements

Under present law, the original owner of any type of real estate project may depreciate the improvements upon any one of these bases or upon a combination of two: straight line, sum-of-the-years-digits, or double declining balance.

(B) Depreciation of Existing Improvements

Existing improvements which are conveyed may be depreciated by their new owner on the 150% basis; this method provides for some acceleration during the initial years of ownership, but not as much as either sum-of-the-years-digits or the double declining balance methods.

(C) Recapture Provisions

If real estate is sold in the first year of the holding period, then all the depreciation deduction taken during that time is taxable at ordinary income rates to the extent that it is recaptured by the sale. For the next eight months (from months 13 through 20) all depreciation in excess of straight line which is recaptured by the sale is taxed at ordinary income tax rates. Beginning the twenty-first month, the percentage of the excess depreciation recaptured at the time of sale which is taxed at ordinary rates declines 1% for each additional month of the holding period. Thus if the owner holds for ten years, he is assured of full capital gains treatment.

PROPOSED CHANGES BY THE SENATE FINANCE COMMITTEE

(A) Depreciation of New Improvements

The Senate Finance proposal would retain all existing depreciation methods for new residential construction, but would limit new commercial and industrial facilities to the 150% method.

(B) Depreciation of Existing Improvements

Second and subsequent owners of all depreciable real property would be limited to the straight line method of depreciation regardless of the type of property.

(C) Recapture Provisions

The Senate Finance Committee has proposed three separate formulae as to tax consequences, depending on the type of property which is being sold or disposed of:

(1) Certain low and moderate income rental housing projects assisted under Federal or State law which involve limited dividend mortgagors receive the same treatment as before (i.e. 100% capital gains treatment at the end of the tenth year.)

(2) New residential construction, other than these special housing projects, would be subject to full recapture at ordinary rates on the excess over straight line for ten years, then, beginning the first month of the eleventh year (121st month), the percentage of the excess depreciation which is taxed at ordinary rates declines 1% per month for each additional month of the holding period. Full capital gains treatment is assured in 18 years, 4 months.

(3) Used residential and both new and used nonresidential buildings are subject to full recapture of the excess depreciation over straight line recaptured at the time of sale at ordinary income tax rates, regardless of when the sale takes place.

CHANGES EFFECTED BY THIS AMENDMENT

(A) Restoration of Accelerated Depreciation to Second and Subsequent Owners of Residential Construction.

This amendment would restore accelerated depreciation to second and subsequent owners of residential real property. However, the rate of the acceleration would be based on the estimated future useful life of the project.

(1) If the remaining useful life is less than twenty years at the time of transfer, the purchaser would be limited to the straight line method.

(2) If the remaining useful life is between twenty and thirty years, the purchaser would be entitled to depreciate at the rate of 125% of straight line.

(3) If the remaining useful life is thirty years or more, the purchaser would be entitled to the 150% method. However, second and subsequent owners of commercial and industrial property would be limited to the straight line method as recommended by the Senate Finance Committee.

(B) Changes in the Recapture Formulae

The amendment would alter the recapture formula recommended by the Senate Finance Committee in two respects:

(1) For the owners of residential construction (both new and used), there would be a full recapture of all the excess depreciation taken over straight line at ordinary income tax rates if there were a sale in the first five years. Thereafter, beginning the first month of the 6th year (61st month), the percentage of the gain taxed as ordinary income would decline 1% per month. Thus residential property held for 13 years, 4 months would be entitled to full capital gains treatment at the time of sale. This provision would also apply to the special 5-year write-off for rehabilitation expenses incurred on low-rent housing.

(2) For owners of other types of new construction, there would be full recapture for the first ten years, and then, beginning the first month of the eleventh year, the percentage of the gain taxed as ordinary income would decline at the rate of 1% per month. This is the same provision as the Senate Finance Committee recommended for residential construction. (Note, this provision would have no effect on second and subse-

quent owners of nonresidential construction inasmuch as they are limited to the straight line depreciation method.)

The letter, presented by Mr. TOWER, is as follows:

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., December 8, 1969.

Hon. JOHN G. TOWER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TOWER: You have requested a statement of the position of the Treasury Department on Amendments 297 and 298 to H.R. 13270, the Tax Reform Act of 1969, which you have proposed. In general, these amendments would change the provisions of the bill which allow only straight-line depreciation in the hands of a second owner (so-called "used" property) and which eliminate the phase-out of recapture of the excess of accelerated over straight-line depreciation for buildings and other real estate improvements. They would allow 150 percent declining balance depreciation if the life of the property exceeds 30 years, 125 percent if the life is between 20 and 30 years, and straight-line depreciation if the life is less than 20 years. The phase-out of recapture would be reinstituted to begin after the fifth year of ownership.

The Treasury Department will support these amendments if they are limited to housing, rather than being applicable to all real estate construction as they are in their present form. Treasury would also support a reinstatement of the phase-out of recapture beginning after the tenth year for real estate improvements other than housing if it were coupled with a limitation of Amendments 297 and 298 to housing.

It is my understanding from recent discussions with officials of the Department of Housing and Urban Development that HUD will also support the amendments in this revised form.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

AMENDMENT NO. 408

Mr. WILLIAMS of Delaware submitted amendments, intended to be proposed by him, to House bill 13270, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 409

Mr. KENNEDY (for himself and Mr. PEARSON) submitted an amendment, intended to be proposed by them, jointly, to House bill 13270, supra, which was ordered to lie on the table and to be printed.

(The remarks of Mr. KENNEDY when he submitted the amendment appear later in the RECORD under the appropriate heading.)

AMENDMENT OF MIGRANT HEALTH ACT TO INSURE MIGRANT PARTICIPATION IN PROGRAM DEVELOPMENT AND IMPLEMENTATION—AMENDMENT

AMENDMENT NO. 402

Mr. MONDALE. Mr. President, I submit an amendment to S. 2660, a bill to extend and otherwise amend certain expiring provisions of the Public Health Service Act for migrant health services, that would provide for participation of the migrant agricultural worker in program development and implementation.

I am today proposing that section 310 of the Public Health Service Act, which provides money for migratory farmworkers' health care, be amended by adding language that will guarantee participation by the target population in the development and implementation of migrant health programs.

The Migrant Health Act was passed in 1962 with the avowed purpose of providing health care for migrant farmworkers. Before passage of the act, adequate health care was the exception rather than the rule for migrant families. Migrant farmworker families were excluded from traditional health services taken for granted by all the rest of society.

Now, through 116 project grants in 36 States, physicians and hospitals are involved in upgrading the health of farmworkers. The present appropriation of $8 million limits provision of service to only about one-third of the target population, and in many instances, even those services are inadequate or incomplete because of the shortage of funds.

Although the act is improving health care services for migrants, recent hearings in Washington and in the Rio Grande Valley of Texas on the extension of the act, point up the need to involve the consumer population in project development and implementation.

Too often Federal funds are not being used to their fullest advantage. A lack of knowledge on the part of migrants about available facilities and program components still prevails. Many programs lack an adequate outreach component. Too often programs do not take into account the total poverty of migrant families, so that health care is not matched with services to meet related needs of food, shelter, clothing, and other familiy needs. Special effort and innovation in organizing and delivering services to make them more accessible for the use of geographically and socially isolated migrants is often lacking. Some programs have not explored the possibility of developing new sources of personnel to supplement available professional personnel, such as aides drawn from among migrant families.

Some programs are in the hands of local, county, or State health departments that are insensitive to the needs of migrants or operate heedless of the dignity of the individual. Many local public health programs are already starved for funds, and thus use Migrant Health Act funds to operate their regular programs. Programs are often entwined with legal and policy exclusions from certain local services. Language problems often cause confusion in the delivery of needed services, and staff members are often not bilingual in areas where Spanish is the prevailing tongue. In other instances, health care was not related to the needs of the individual or the family. Experts have documented the fact that greater attention to preventive medicine might obviate the high costs of curing advanced stages of disease.

I am convinced that insufficient health care for the rural poor and the migrant will remain the rule, rather than the exception, until we tap the vast wisdom, understanding, loyalty, and pride of the poor. It is the poor themselves who know most about the details and the solution to their predicament.

My amendment represents a modest, inexpensive device for guaranteeing that those who are excluded from health care be permitted to participate in the development and implementation of programs that are intended to improve their health.

My amendment simply requires that before grants are authorized, the Secretary must be satisfied that persons broadly representative of all elements of the population to be served have participated in the development, and will participate in the implementation, of such programs.

The purpose is abundantly clear. It is to have the input of the poor in the implementation and delivery of health care so that the Government and the people get the most for their dollar.

I ask unanimous consent that this amendment be printed in the RECORD at the close of my remarks.

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will be appropriately referred; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 402) was referred to the Committee on Labor and Public Welfare, as follows:

AMENDMENT NO. 402

At the end of the bill insert a new sentence as follows:

"SEC. 2. Section 310 of the Public Health Service Act is further amended by adding immediately after the final sentence thereof the following new sentence: For the purposes of assessing and meeting domestic migratory agricultural workers' health needs, developing necessary resources, and involving local citizens in the development and implementation of health care programs authorized by this Section, the Secretary must be satisfied, upon the basis of evidence supplied by each applicant, that persons broadly representative of all elements of the population to be served have been given an opportunity to participate in the development of such programs, and will be given an opportunity to participate in the implementation of such programs."

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1970—AMENDMENTS

AMENDMENTS NOS. 404 THROUGH 406

Mr. TYDINGS submitted three amendments, intended to be proposed by him, to the bill (H.R. 14916) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1970, and for other purposes, which were ordered to lie on the table and to be printed.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 346

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the names of the Senator from Illinois (Mr. SMITH) and the Senator from Alaska (Mr. STEVENS)

be added as cosponsors of my amendment No. 346 to the pending tax reform bill, H.R. 12370.

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. SCOTT. Mr. President, the Washington Evening Star on December 6, 1969, published a page 1 article attacking the Equal Employment Opportunity Commission. The article was full of distortions and misinformation. The source of the information was admittedly "unhappy personnel" of the agency.

This kind of attack cannot go unanswered, for it seriously impairs the effectiveness of the Commission and the important work which Congress empowered it to undertake.

William H. Brown III, Chairman of the Equal Employment Opportunity Commission, today held a news conference to set the record straight. I ask unanimous consent that his prepared statement be printed in the RECORD.

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

Title VII of the Civil Rights Act of 1964 established the Equal Employment Opportunity Commission as a non-partisan agency, protected from the divisive and sometimes destructive forces of the political arena. Since I became Chairman on May 6, 1969, I have tried to direct the energies of this Commission to the important task of eliminating job discrimination, and to keep the Agency out of politics. This has been a difficult task, since the nature of the problem we deal with is at the heart of some of the nation's most crucial social ills, and accordingly is the subject of political controversy. Yet, if the Commission is to succeed in its task—the elimination of discrimination in employment—it must not become bogged down in political combat.

It is important to consider what effect such disputes have on the Agency's staff. EEOC is made up of individuals strongly committed to the proposition that every American should have a chance to work according to his abilities. Theirs is an extremely difficult task, and I think it is grossly unfair to involve them in the kind of political pulling and hauling which should be reserved for political campaigns.

For these reasons, I was greatly disturbed by the article which appeared in the Washington *Evening Star* on Saturday, December 6, containing an irresponsible attack on the Commission. The sources for this story were admittedly "unhappy personnel within the Agency." No one in a responsible position in the Commission was interviewed.

I note that the name of former Chairman Clifford L. Alexander, Jr. was mentioned in the article. I urge Mr. Alexander to repudiate the article, for he knows better than anyone else that it is based on inaccuracies and distortions. Ordinarily, I would not comment on an article of this kind, but the credibility of this Agency in the minds of the people it seeks to serve is of utmost importance to our eventual success. Accordingly, I feel compelled to set the record straight and respond to these misstatements.

I think it is important to look at the situation as I found it on May 6 when I became Chairman. The Commission's backlog of cases was steadily increasing and had in fact reached the point where the Commission's processes were in danger of being overwhelmed. The operations of the Commission, including investigations, decisions and interpretations, and conciliations, were seriously understaffed. In the field the high rate of turnover among young investigators, combined with a shortage of trained cadre, seriously hampered the effectiveness of these offices. There was no working manual for investigatiors; there was no working manual for conciliators; there was no systematic training program for either investigators or conciliators. Despite these problems there was a policy of delegating compliance responsibilities to the field offices, without providing a structure to ensure a uniform high-quality work product. The field offices, in effect, had become 13 different Equal Employment Opportunity Commissions.

This was the situation on May 6. Now, we are told that the Commission's problems are a recent development.

The Evening Star reports that there are "99 vacancies among the EEOC's 615 positions, here and in the field." In fact, the Commission has 629 authorized positions, 613 of which are filled.

The *Star* reports that "11 of 15 supergrade positions are vacant." In fact, only 6 of these positions are vacant and we are vigorously recruiting highly qualified individuals to fill these positions. I might point out that prior to my appointment as Chairman four of these supergrade positions—Deputy Executive Director, Deputy General Counsel, Director of Technical Assistance, and Chief of Education Programs—remained vacant for a year or longer. As of May 1 of this year, seven supergrade positions were vacant, and five additional vacancies occurred following the resignation of Clifford Alexander as Chairman.

In this respect, the present vacancies are not a novel problem. But the solution to the problem. I believe, has been made more difficult by the Commission's history of filling positions by adjusting agency structure and activities to accommodate the needs of personal and political associates. The result has been that the Commission's activities and its reputation have been seriously impaired.

The *Star* reports that meetings of the Commission "have dropped from once a week to once every two or three weeks." This is a distortion. Up to the time that Mr. Alexander became Chairman, meetings were held on the average of once a week. During Mr. Alexander's chairmanship, meetings were held once every two or three weeks. Since I have become Chairman, meetings have been held with the same frequency.

The article parrots the frequently made, but baseless claim that I am against this Commission holding public hearings. As recently as last Monday, in an open hearing before the House General Subcommittee on Labor I reiterated that I fully intend to hold public hearings. My testimony is a matter of record. Two months ago, I directed the Commission's Office of Research to begin preparation for hearings. It has been busy collecting information to aid the Commission in determining the scope and location of the next hearing. This time, the preparation for this hearing will include a follow-up procedure, because *I* do not regard public hearings as mere publicity stunts to be forgotten once the television cameras are turned off.

Perhaps the most remarkable charge that was leveled was that the Agency's backlog of cases has continued to rise since my taking office and that I have allowed the situation to worsen with no attempt to alleviate the problem.

These are the facts: At the beginning of FY 1968, this Agency had a backlog of 1,476 respondent investigations. By the end of FY 1969, that figure had increased to 2,556 respondent investigations. Part of this problem stems from inadequate funding. I think it is important to note, however, that prior to my Chairmanship, the weaknesses in Agency procedures that contributed to the problem were ignored. Repeated requests from responsible members of the staff to make basic changes in the Agency procedures were, in many instances, not even acknowledged. In attention to the problems of the backlog and the personnel policies I described, frustrated efficient implementation of the provisions of Title VII, and demoralized those staff members who cared more for civil rights than rhetoric.

In sum, on May 6, 1969, I became Chairman of an institution which was no more prepared to perform the task set out for it by Congress than it was at its inception. Things are changing.

For the first time in the history of the Commission, a comprehensive study has been made of the compliance process as it actually operates.

This critical analysis was distributed to the field directors and the heads of our Washington division, with an invitation for comments and recommendations.

Then there was a no-holds barred meeting of the field directors and the various division heads. Out of this came a new, streamlined and more effective compliance procedure which was voted on and adopted by the Commissioners in a meeting on November 13. We believe the new procedure will help eliminate the backlog and greatly speed up future case handling.

In short, we are now doing that which should have been done long ago. We are establishing procedures and hiring personnel to carry forward a meaningful compliance program. It would be naive to suppose that the Commission's problems will be resolved in a short time. They will not. There are other handicaps—statutory as well as the cumulative effects of past mismanagement that will still have to be worked out. But this Commission is determined to make Title VII of the Civil Rights Act of 1964 work and work effectively.

It would be tragic if this Agency, which for the first time is beginning to develop an effective compliance program were to fall victim to a reckless political attack.

DETERIORATION OF SERVICE BY WESTERN UNION

Mrs. SMITH of Maine. Mr. President, if others have had the same continuing experience with Western Union that I have had, I am sure that they have shifted more and more away from using Western Union and toward using long-distance telephone.

The deterioration of service by Western Union began many years ago, as far as my home State of Maine is concerned. Western Union stopped delivering telegrams in most areas of Maine after 5 o'clock in the afternoon. Instead, Western Union started putting late afternoon telegrams in the mail or using the telephone to relay the messages. Western Union closed offices in town after town in Maine.

I have much sympathy for the Western Union employees in Maine for what they have to take in customer resentment at the company management deficiencies of Western Union.

Irresponsibility and poor service have become the normal Western Union pattern—not the exception to the rule.

It is happening all the time. For example, this past Saturday, late in the day, I received a Western Union telegram sent from Terre Haute, Ind., the day before.

Such slow delivery is bad enough. But the telegram sent by three residents of Terre Haute challenged me with the statement of "notice with interest your

figures on numbers of Vietnamese killed by U.S. troops and allies. We must admit grave doubts as to your accuracy. If unfounded—why?"

Since I have never set forth any such figures or statistics, my assistant placed a long-distance telephone call to the first signer of the Western Union telegram to inquire as to the basis for the telegram. He did not chance sending a Western Union telegram in making the inquiry.

The signer of the telegram was promptly reached. He stated that what the three senders of the telegram had done was to make the inquiry in another telegram to another Senator who had stated such figures and statistics, and had asked that several other Senators be sent a copy of such telegram.

Then on Sunday—2 days after the original telegram—Western Union sent a corrected telegram to me stating:

The following is a copy of a telegram we sent to Senator ——— on above date.

And then stating text of telegram originally sent to me.

It is obvious that the only reason that Western Union troubled to make the correction was the inquiry in the long-distance telephone call that my assistant made to the first signer of the original telegram.

Only a short time before, when a joint telegram was sent to me and another Senator, Western Union did not trouble to deliver the message to me. I had to learn about the undelivered message from the other Senator.

These two instances of such erroneous, sloppy, and irresponsible lack of service by Western Union are not exceptions to the rule. Instead they have become par for the course.

ORIGIN OF KHRUSHCHEV'S STATEMENT "WE WILL BURY YOU"

Mr. FULBRIGHT. Mr. President, we have all heard a good deal in the past decade about the phrase, "We will bury you," attributed to former Premier Khrushchev. I had heard some time ago that this phrase had never been used by Mr. Khrushchev in a formal speech but was a remark attributed to him in the course of a conversation with a number of Western diplomats at the time of the Suez crisis. On November 17, I wrote the Department of State and asked them to provide an account of the history of this remark.

The Department has replied, in a letter dated November 26. I think that this reply will be of interest to Senators and of some historic interest to readers of the RECORD. I therefore ask unanimous consent that my letter of November 17 and the Department of State's reply be printed at this point in the RECORD.

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

NOVEMBER 17, 1969.

Hon. WILLIAM P. ROGERS,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: Reference is often made by Members of the Senate to Mr. Khrushchev's alleged statement in a speech that "We will bury you." It is my impression that this phrase was never used by Mr. Khrushchev in a formal speech but was simply a remark attributed to him in the context of a conversation that he had with a number of Western diplomats during a discussion of the invasion of Egypt at the time of the Suez crisis.

I would appreciate the Department of State's account of the history of this remark.

Sincerely yours,

J. W. FULBRIGHT.

DEPARTMENT OF STATE,
Washington, D.C., November 26, 1969.

Hon. J. W. FULBRIGHT,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of November 17, 1969, asking for the Department's account of the history of Chairman Khrushchev's remark, "We will bury you."

According to western journalistic accounts, this statement was made by Khrushchev at a reception for Polish leaders on November 18, 1956, at the Polish Embassy in Moscow. Both at this reception, and at a similar one the previous evening at the Kremlin, Khrushchev was in a belligerent mood, and his intemperate remarks concerning the actions by Britain, France and Israel in the Middle East, caused a number of western officials to walk out. Since the "We will bury you" remark was not reported to the Department officially, it may be that it was made after western officials had left the room where Khrushchev was speaking. In the official Soviet text of the Chairman's remarks issued the next day, the "We will bury you" phrase was not included, and on October 5, 1957, the Soviet news agency TASS, responding to citation of this quotation by Ambassador Lodge at the United Nations, charged that it was merely "the fruit of idle talk by those who are instructed to handicap the improvement of Soviet-American relations."

During another reception at the Polish Embassy in Moscow on September 4, 1959, however, Khrushchev did not so much deny the remark as complain that he had been misunderstood. Addressing himself to noncommunist countries, he said: "Mind, we shall not dig your grave in the physical sense." Khrushchev repeated this explanation during his visit to the United States when, at the National Press Club in Washington on September 16, 1959, in response to a question on the quotation, he said:

"What I meant was not physical burying of anyone at any time, but a change of the social system in the historical development of society . . . At the reception in question, I said that during historical development and in the historical sense Capitalism will be buried; that Capitalism will be supplanted with Communism."

Khrushchev's belief that he had been misunderstood is clear from the Russian text of his remarks at the Press Club. In the question addressed to him, the verb "to bury" was translated by the Russian words "zakopat' v zemlyu", which has only the literal meaning of "to bury in the ground." However, the word he claimed he used was "khoronit,'" which has both a literal and a figurative meaning in Russian. To quote the authoritative Russian dictionary edited by Professor Ushakov, the verb "khoronit'" can mean: "To consider obsolete, perished, unnecessary or to bury in oblivion." Thus, it appears that by using this word, Khrushchev had in mind the deterministic necessity, according to Marx and Lenin, that Capitalism would eventually be replaced by Communism.

During his subsequent years in office, Khrushchev frequently used the metaphor of "burying Capitalism" but always was careful to deny its literal meaning. For example, in a speech at Split, Yugoslavia on August 24, 1963, he admitted:

"I once said that we—that is, the communist system—will bury Capitalism, and the bourgeois ideologists began to distort my words, stating that I would bury Capitalism with a spade. Why should we need that? It is not we who will do that; it is the working class, the working people of the capitalist countries themselves who will . . . establish their own power."

I hope that you will find this information useful. If I can be of any further assistance, please do not hesitate to call on me.

Sincerely yours,

H. G. TORBERT, Jr.,
Acting Assistant Secretary, for Congressional Relations.

Mr. FULBRIGHT. Mr. President, I further ask unanimous consent to have printed in the RECORD a letter from a constituent from Greenland, Ark. This woman, having no experience in high diplomacy, has the perception to see that if we continue to follow the extravagant and foolish policy of expending our resources and manpower in remote areas of the world where our vital interests are not involved, we will "bury ourselves."

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

WHAT ABOUT THAT?

To the EDITOR:

They are telling us that there has been an overwhelmingly favorable response from "the great silent majority" to Mr. Nixon's speech on Vietnam.

They say the telegrams have poured into the White House in greater numbers than can ever be recalled and that Mr. Nixon is delighted. All this in response to a speech that said nothing, except that he means to keep this war going. That's hard to believe. I think rather that the American people are on the receiving end of a monstrous snow job, which the administration hopes will take some wind from the sails of the anti-war demonstrations soon to occur all over the nation.

They are asking people to demonstrate for Mr. Nixon and his "secret plan" by marching in parades, flying the flag, wearing red white and blue armbands and burning their headlights. Apparently it's okay to demonstrate if you do it for Mr. Nixon's "secret plan" which he cannot reveal at this time. I cannot believe that the majority of the American people will support in blind faith the man who has proven so false since his election a year ago.

Mr. Nixon was elected President of the United States for one reason, he promised to end this insane war and there were just enough of us foolish enough to believe him. I deeply resent being called un-American because I oppose this horrible, unreasonable war. I further resent being placed in the position of being unable to fly my country's flag because to do so would say that I support Mr. Nixon and this war which he has lovingly taken to his bosom. I love my country dearly. I do pledge allegience to her flag, but not to the power-mad politicians whose greed and vanity got us into this mess without regard for the suffering they cause or the blood on their hands.

They are not gods to be kindly obeyed as they would have us to believe, since they are our elected officials. They want us to be silent alright, while they send our children to be slaughtered in whatever obscure corner of the world they see fit, for whatever reason, without the consent of the "great silent majority". It's incredible to me that the people in the high offices of government, especially the President, cannot see what this war is doing to our country. We are committing suicide in this pathetic little country, and if we are to survive as a nation this war must be stopped. They say it's the communists who are behind all the anti-war demonstra-

tions, that they want us to stop fighting. How absurd.

Why should they want us out of Vietnam? They are bleeding us to death of everything we have, of our precious sons and our nation's wealth. It's to their great advantage to keep us there, so that we will finally be so weakened from pouring our resources into this bottomless pit that we will not be able to resist when they are ready to risk out and out war with us. Red China can and is supplying men in overwhelming numbers. Russia and her satellites can and will supply the enemy with weapons indefinitely. If this is how we fight communism, we can do nothing but lose for time is on their side.

We should not be surprised, they have always told us how they mean to conquer us, and our leaders are falling unerringly into the trap they have set. Mr. Nixon wants to "negotiate an honorable peace" with people who are without honor, and it is to their advantage to keep us fighting, and our leaders will not allow us to fight to win. When my son was ten years old, I heard them say on the newscasts that this war would probably last 20 years. A little over two months ago, he was killed in Vietnam. Mr. Nixon's form letter with the rubber stamp signature said he was sorry. The people of our beloved nation are going to wake up. I pray God it won't be too late.

How many of our sons can we afford to sacrifice? I wonder how many people who have lost boys feel it was worth their son's life? I am unable to muster up any enthusiasm for our President's "secret timetable," it's going to come too late for us, and hundreds of thousands of other brokenhearted families. What about that Great Silent Majority, Mr. Nixon?

Mrs. DOROTHY LEDBETTER.

GREENLAND, ARK.

GIANT IN THE SENATE

Mr. GRIFFIN. Mr. President, the date of his retirement, January 2, 1971, is still months away. But the announcement by Senator JOHN WILLIAMS, of Delaware, that he will not run again has already left a profound impact upon the Senate and the Nation at large.

Unless this giant in the Senate can be convinced to reconsider and run again, the Senate and the Nation will suffer a loss that cannot be measured.

Mr. President, I ask unanimous consent that an article published in the December issue of Nation's Business be printed in the RECORD.

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

A GIANT IS LEAVING THE SENATE

When John J. Williams decided in 1946 he wanted to run for the U.S. Senate, he was a small town Delaware feed grain merchant without political experience, a following or connection in his party's state organization.

"I couldn't use that old line about my friends urging me to run," he recalls candidly. "I don't remember anybody ever asking me. In fact, most of my friends thought it was a pretty farfetched idea."

And the assumption by a 42-year-old novice that he could enter state politics at the top certainly didn't sit well with Delaware's Republican leaders.

"I had never met the state chairman," Mr. Williams says. "He was a little peeved that someone would be so brash as to announce a Senate candidacy without talking to him. But I went into it on the principle a man has a right to seek office in this country without the consent of anybody."

Most politicians, when asked why they pursue public office, come up with high-flown answers about service to nation and mankind, etc. John Williams' explanation is far more direct: "I thought I'd like to try it and I did."

"Oh, I'd been pretty concerned as a businessman about the trend in the country toward too much centralization of power in Washington," he adds. "But I didn't have any great noble drive."

Drive or no drive, he began traveling around the state, working long, gruelling days, to make himself and his views known.

Veteran Delaware Republicans, anticipating a Democratic victory, had shied away from making their party's Senate race. By the time they sensed that a Democratic success might not be inevitable after all, that the national mood was for a change after the long Depression and war years, Mr. Williams was well ahead for the nomination.

He went on to defeat the Democratic incumbent by nearly 12,000 votes out of 113,500 cast.

Sen. Williams had entered the feed grain business with his brothers immediately after finishing high school and leaving the family farm. Now, a brother took over responsibility for the store.

"There was nothing big about it, but we made a living," the Senator recalls. "He did all right after I left, so I guess I wasn't as important as I thought I was."

INTO THE BIG TIME

In Washington, the political novice and small businessman, lacking a college education and possessing a speaking style that ranged from an almost inaudible whisper to a rasp, joined a body composed mostly of lawyers or professional men—men long on political experience, on education, on knowledge of big business and finance, and on dramatic oratory.

But it was the grain merchant from Millsboro, Del., who was to rock the Truman Administration with disclosures of staggering corruption in the Internal Revenue Service and elsewhere in government, who was to assail the conduct of Sherman Adams in another Administration and was to bring about the downfall of Bobby Baker in still another. And John Williams' grasp of high-level economics and tax policies, acquired through long, hard work and study, was a major factor in forcing Lyndon Johnson to surrender and accept spending limits in return for Congressional passage of the 10 per cent income tax surcharge.

Now, at 65, Sen. Williams has announced he will retire when his present term ends in 1970. He is approaching the final year of his Senate days, working and fighting as hard as ever for causes he has championed from the moment he arrived—honesty, efficiency and economy in government.

He has earned a title given few others in the nation's history: "The conscience of the Senate."

In the late 1940's, information came to Sen. Williams of graft in key federal tax offices across the country. He began digging, but, in his unflagging insistence on accuracy and fairness, it would be more than two years before he made his first speech on the subject.

The trail led slowly but inexorably from lesser lights in regional offices to the highest echelons of Internal Revenue, the Justice Department and the White House itself. Resignations, indictments and convictions followed.

But party lines play no role in Sen. Williams' outlook on governmental ethics.

Sherman Adams, known as the "assistant president" during the Eisenhower Administrations, came under fire in 1958 for accepting gifts, including a $2,400 rug, from an industrialist having problems with government agencies. Sen. Williams was as outspoken as he had been when a Democrat was in the White House. "There can be but one code of ethics for public officials," he told the Senate.

"I condemned the deep freezes," he said in a reference to a famous gift to a Truman aide, "and I will not defend the rugs now."

ENTER THE BAKER CASE

It was a brief, newspaper account of a civil suit that launched the Senator on one of the best-known of his many battles against corruption in government. A disgruntled owner of a vending machine company had filed suit against Robert G. "Bobby" Baker, secretary to the Democratic Senate majority. The owner said he had paid Baker for help in obtaining a contract that went somewhere else.

"I wasn't interested in where any contract went," Sen. Williams recalls, "but I did want to know why a Senate employee was being paid to get somebody a contract."

He began digging into the affairs of Baker, the ex-page who had risen to the influential secretary's post under the patronage of the majority leader at the time, Lyndon B. Johnson of Texas. The Delaware Senator wanted to know whether Baker had used the job to further what turned out to be extensive, outside business interests.

"It just descended like an avalanche," Sen. Williams says. "In a short period of time I had developed enough information that I was convinced something was bad."

He took it to Senate leaders, suggesting a meeting with Baker. "I wanted to outline the things that bothered me and Baker could respond. Then I—and they—could evaluate his responses." Baker could not be reached for an initial meeting.

A second meeting was arranged after a firm pledge from Sen. Mike Mansfield, Mr. Johnson's successor as majority leader, that Baker would be there. But Sen. Mansfield arrived alone, downcast, Baker had resigned.

"We can't stop here," Sen. Williams commented. He insisted on the full-scale investigation that led to Baker's conviction of income tax evasion, theft and conspiracy to defraud the federal government. The shock waves set into motion by the Baker case launched a new era of concern on Capitol Hill about standards of conduct expected for Congressional members and staffs.

The Senate adopted a code of ethics providing for a combination of public and private reports on financial interests. Sen. Williams says that development was "a giant step forward," but more should be done.

IT'S HOW YOU GOT IT

He advocates establishment of procedures, with proper safeguards, for evaluating Congressional income tax returns when doubts arise. He sees little value in a proposal pressed frequently by Senate liberals to require public disclosure of financial holdings as of a given date each year.

"It's not what you own, it's how you got it," the Senator says. "The tax return is the key."

Sen. Williams has been constantly at work on issues less-publicized than Capitol Hill ethics.

He has clashed with government officials repeatedly as he has issued well-documented broadsides of waste and inefficiency in housing, agriculture, public works, welfare and many other programs.

A mark of the fairness that has won him high praise from other Senators in both parties in his unfailing practice of giving advance notice to anyone he intends to talk about in connection with inefficiency or dishonesty.

The accomplishment Sen. Williams ranks as the high point of his career as a legislator was the passage in 1968 of the bill making spending cuts the price the Johnson Administration had to pay for approval of the 10 per cent income tax surcharge.

"I'm certainly not proud to have a tax attached to my name," says Sen. Williams, co-author of the bill. But he sees a far more overriding consideration: "I am thoroughly

convinced that if Congress had not acted on both taxes and spending—they had to be tied together—the American dollar would be gone today."

He adds a cautionary note: "We're not out of the woods yet. Merely raising taxes and putting the money into the government spending stream further aggravates the situation."

Conceding that spending limit loopholes later eroded the impact of the original bill, Sen. Williams says that's why he fought all the harder in 1969 not only for greater cuts but for ironclad assurances they will be made.

NOBODY'S PERFECT

Looking back over his years in the Senate, would he have done anything differently?

"Oh, goodness, yes," he responds quickly with a smile. "You make a lot of mistakes. I often wonder what I was thinking about on some of them."

(His candor once threw off a Democratic opponent who declaimed from a campaign platform that he just couldn't understand how Sen. Williams had voted the way he did on a certain issue. The Senator's reply: "I don't understand why I voted that way either. At the time it seemed to be the right thing to do—but it wasn't.")

One place where Sen. Williams will leave no mark after 24 years in the nation's capital is the party-going scene which many of his colleagues frequent. While his mail is heavy with the invitations that all Senators—particularly senior members—receive to cocktail parties, dinners, receptions, diplomatic functions and the like, he rarely attends any of them.

He lives quietly in Washington throughout the week and spends his weekends in Delaware, often at favorite hunting or fishing sites.

The Williamses have a daughter and three grandchildren. When he came to the Senate Sen. Williams boasted of being "the youngest grandfather" in the membership. The passage of time has enabled him to escalate to the claim of being "the youngest great-grandfather in the Senate."

His decision to retire was made in characteristically direct fashion—he cited his long-held view that no Senator should embark on a new term after 65.

The Senator has no specific plans for retirement years—that feed grain business no longer is in the family—but guarantees, "I'm not going home and prop my feet up. I'm not going to lose interest."

He's concerned about the nation's future, and holds that violence and anarchy, on campus or city street, "cannot be defended or tolerated and must be dealt with affirmatively."

At the same time, he adds, "we adults have to recognize that, as we start to correct the situation, we have to look at our own houses.

"When men holding high positions of trust betray that trust, we are creating in the minds of young people an element of doubt about the moral standards we are following ourselves and are asking them to follow."

RESPECTFUL OPPOSITION

John Williams is a conservative by anybody's yardstick.

But it was one of the most liberal of liberal Democrats, William Proxmire of Wisconsin, who said of him:

"I feel he is the one member of this body who is its most able sentinel. I hope . . . that this remarkable man will reconsider his decision to retire."

And another Democrat, Majority Leader Mansfield, summed up Sen. Williams' career in a fashion that will draw little dissent from those who have followed it:

"He has been a giant and his departure from the Senate will leave a void that will be almost impossible to fill."

VIETNAMIZATION OF THE WAR

Mr. McGEE. Mr. President, a distinguished strategist, Britain's Sir Robert Thompson, has recently returned from Vietnam—where, indeed, he formerly served his own government—with the view that the Vietnamization of the war there can be carried off successively if America is prepared to provide needed support for the Saigon government for some time to come.

That is the substance of Sir Robert's report to the White House, according to reports appearing lately. In his view, according to a dispatch by J. F. Ter Horst, published in Sunday's Washington Star, up to 100,000 men may be needed for from 3 to 5 years to insure the success of the strategy, with some smaller number required for 10 or even 15 years. These would not be, in the main, combat forces, however. And, as Mr. Ter Horst observes, such a policy would require public support. It would require patience. It is a policy which aims at the long-haul, but at a much lower cost in lives and dollars, with the goal of wearing out the enemy's hope of achieving a Communist South Vietnam.

Mr. President, I ask unanimous consent that Mr. Ter Horst's report on Sir Robert Thompson's strategy be printed in the RECORD.

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

BRITON BACKS VIETNAMIZATION

(By J. F. Ter Horst)

President Nixon's "outside expert" on Vietnam has some strong notions on how such wars should be conducted. If the President heeds his advice, American boys may be in Vienam for many years. But Saigon might evade Hanoi's clutches.

Sir Robert Thompson, the British strategist who kept Malaysia from falling to Communist guerrillas, made the point to Nixon at the White House on Wednesday, as he had two days earlier with Henry A. Kissinger, the President's adviser for national security affairs.

The thrust of the Briton's position is that "Vietnamization" of the long and costly war will work, and not merely to pave the way for U.S. troop withdrawals. If the United States goes at it properly, and if public patience can be maintained, he believes South Vietnam can be denied to the Communists just as Malaysia has been.

BACK FROM VIETNAM

He conferred with Nixon and Kissinger on his return from a tour of South Vietnam for the Rand Corp., one of the "think tank" groups which advise government agencies on policy alternatives. He had last seen Nixon two weeks before the President's Nov. 3 speech on Vietnam.

That address hinted at consideration of such a strategy, if not outright acceptance.

Press Secretary Ronald L. Ziegler says he assumes the British specialist will be meeting with other members of the administration.

Ziegler said Nixon found the report "highly interesting" and that the President probably would be seeing him again from time to time.

"Sir Robert Thompson went (to South Vietnam) with the total encouragement and, to some extent, on behalf of the administration," Ziegler said.

LONG-HAUL STRATEGY

In conversations with U.S. military advisers and others, Thompson advocates what he calls a "long-haul, low-cost strategy" for keeping South Vietnam afloat.

It is essentially the same plan he designed for defeating Red guerrillas in Malaysia in the 1950s, plus modifications for Vietnam devised while serving as head of the British advisory mission in Saigon from 1961 to 1965. He has set it down in a little-noticed book, "No Exit From Vietnam."

What he advocates above all is the adoption of a policy to build a strong South Vietnamese government (not necessarily democratic) and an end to the strategy of destroying the enemy militarily.

There would be counter-insurgency forces, to be sure, but mainly nationalist forces, not Americans. They would guarantee physical security first to key areas, such as Saigon, Hu and Da Nang, and gradually extend their security perimeters until they overlap.

Instead of trying to decimate the Viet Cong, he advocates that they be pushed out, denied access to local support and kept perpetually on the run until such time as they lose morale, weaken and grow weary of further conflict.

Meantime, the cleared areas would permit Saigon to begin local control through a civil service responsive to the national government.

To make this work, in his view, the United States must preserve its military presence in Vietnam indefinitely.

Forces could be scaled down, though. He shares the view that U.S. combat units could be withdrawn and probably considerable support forces, too, in time.

But in his view, there must be sufficient U.S. military strength on the ground and in the air—say 100,000 men—for three to five more years to achieve minimum Vietnamization results. For complete success, he thinks 10 or 15 years would be required.

Nixon, however, would have several other factors to consider before following this strategy.

First, he would need to have public support. If he can get the war down to a low-cost, low-kill level, it's possible the American public would tolerate a long-time U.S. presence in Vietnam just as it has tolerated one in South Korea for nearly two decades. The United States still has a 56,000-man force in Korea.

Second, the Briton's strategy would run into trouble if North Vietnam decided to mount large-scale offensive warfare in a classic military sense. So Nixon would need some enemy "cooperation" for success with such a plan, or must keep sufficient U.S. forces there as added insurance—or both.

THE LEAGUE OF WOMEN VOTERS AND POLITICAL RIGHTS FOR WOMEN

Mr. PROXMIRE. Mr. President, The Human Rights Convention on Political Rights for Women was signed on March 31, 1953. Forty-two nations have placed their signature on this declaration. The United States has not, as yet, seen fit to do likewise. When, and if, this Nation ever does join in an international commitment to the political rights for women, it will be in large part due to the efforts of the League of Women Voters.

The League of Women Voters has worked for years for the advancement of political rights for women. The origin of this league reveals a large part of its character. The origin was documented in a bulletin recently sent out by the League. It stated:

On February 13, 1920, six months before the 19th Amendment to the United States Constitution was ratified, delegates of the

American Woman Suffrage Association held a victory convention in Chicago, at which the following wire from President Wilson was read:

"Permit me to congratulate your Association upon the fact that its great work is so near its triumphant end that you can now merge it into a League of Women Voters to carry on the development of good citizenship and real democracy . . ."

Carrie Chapman Catt, President of the American Woman Suffrage Association, which had spearheaded the 72-year drive for the American woman's franchise rights, described the function of the new organization:

"In the League of Women Voters we have an anomaly; we are going to be a semi-political body. We want political things; we want legislation; we are going to educate for citizenship. In that body we have got to be non-partisan and all partisan."

And so, in 1920, a National League of Women Voters emerged, with the goals of educating the new electorate and lending active support on legislative issues. Mrs. Catt was named Honorary President, Mr. Maud Wood Park was elected National President, and the work of the League of Women Voters began. What started as an experiment to promote the participation of women in government and to help 20 million enfranchised women carry out their new responsibilities, has grown through the years into a unique, nonpartisan organization that promotes political responsibility among all citizens.

The importance of the League of Women Voters cannot be exaggerated. The educational value of this organization has been highly valuable and significant to the democratic system of which it is a part.

The example of the League of Women Voters dramatically illustrates the necessity of ratifying the Human Rights Convention on Political Rights for Women. The league has shown its capabilities in this area. It is up to this Chamber to recognize this fact, to ratify the Convention of Political Rights for Women and, therefore, to make our national commitment to political rights for women an international one.

FINNISH INDEPENDENCE DAY

Mr. GRIFFIN. Mr. President, thousands of Americans of Finnish descent throughout this great land observed and celebrated the independence of their ancestral homeland on December 6. On this day in 1917, Finland declared its independence from Soviet rule.

While that date each year is of special significance for Finnish-Americans, it is a date which is of importance to all Americans because all have been enriched by the contributions of Finnish culture to our lives.

I am particularly pleased to call attention to Finnish Independence Day since thousands of Finnish-Americans now make their homes in Michigan.

The settlement of Finns in America coincides with the founding of the earliest colonies. The first Finns arrived in the 17th century as part of a Swedish colony that settled in what is now Delaware. Their colonial settlement extended throughout the Middle Atlantic and New England States.

The mid-19th century witnessed the largest influx of Finns to America. Their settlement was extended to the Midwest and California, the Pacific States and Alaska.

Understandably, the great majority of Finns were attracted to those regions of the United States which most closely resembled their native land. Consequently, the areas with the largest Finnish populations are in the Northern States and the Pacific coast: Michigan, Minnesota, Ohio, Wisconsin, New York, Massachusetts, Washington and California.

By 1930, Michigan had the largest Finnish population. It is in Michigan's Houghton County, in the beautiful Upper Peninsula, that the concentration of Finnish population can be found.

Finnish contributions to life in America are visible throughout the country. The institutional life of these civic-minded people can be seen in their many churches and workers halls. Historical markers dot the landscape.

Suomi—soo'-me—College in Hancock, Mich., stands out as a living testament to the Finnish commitment to higher learning. At Suomi are embodied the Finnish-American Historical Archives.

Perhaps the most widely known of all Finnish contributions to America is the work of the the late architect, Gottlieb Eliel Saarinen. Saarinen's creations, which add contemporary beauty to the landscape of the United States and other countries, include the General Motors Technical Center in Detroit, the American Embassy in London, the Kresge Auditorium and Cylindrical Chapel of MIT, and the Chicago Tribune building which was fundamental in revolutionizing skyscraper architecture in America.

Thus it is with sincere appreciation for their many-faceted contributions to the enrichment of American culture that I take pride and pleasure in paying tribute to all Americans of Finnish descent.

ELEMENTARY AND SECONDARY EDUCATION ACT FUNDING

Mr. CRANSTON. Mr. President, last April President Nixon recommended substantial cuts in federally assisted library programs for fiscal year 1970. He made no budget recommendations for funds for school library resources, textbooks and other instructional materials provided for under title II of the Elementary and Secondary Education Act. He also reduced by almost 50 percent funds for public library services and cut all funds for the construction of public libraries under titles I and II of the Library Services and Construction Act.

Unless Congress at the very least restores these cuts, school and public libraries will face unbearable financial burdens in fiscal year 1970, and education, generally, will suffer. In California, for example, the dollar effect of the proposed cuts are the following: ESEA II, from $4,786,011 in fiscal year 1969 to zero in fiscal year 1970; LSCA I, from $2,666,778 in fiscal year 1969 to $1,154,367 in fiscal year 1970; and LSCA II, from $1,376,957 in fiscal year 1969 to zero in fiscal year 1970.

Mr. President, I recently received a letter from Mrs. Alma B. Polk, chairman of the Legislation Committee of the California Association of School Libraries. In that letter she describes the impact of ESEA II funds in California and the Nation. Because the HEW appropriations bill will soon come to the floor for consideration, I ask unanimous consent that the portion of her letter describing the impact of ESEA II be printed in the RECORD.

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

Since Title II funds became available in California, approximately 1500 new school libraries have been established by local education agencies, more than 12,000 existing libraries have been expanded, and 143 Phase II exemplary libraries have been established. With the funds available to date, nearly six million library books have been purchased, more than 350,000 periodicals have been obtained, and nearly 800,000 audiovisual items have been added to library collections.

On the national level, new library and instructional materials were made available to approximately 44.6 million children and 1.8 million teachers, in fiscal year 1967. In FY 1966–67, 8,487 new libraries were established, and existing libraries were improved in 91,000 public elementary schools and 41,500 public secondary schools. Loans of materials to private schools benefited 3.1 million students. Many states have reported an increase in local and state financial support of school libraries, as a result of the "seed" money from ESEA Title II.

THE BIAFRA ISSUE WILL NOT GO AWAY

Mr. PEARSON. Mr. President, in this holiday season it is only natural that we look inward and pause to enjoy our good fortune and the fine company of our friends and neighbors. But even now we must face some heavy responsibilities that will not go away. One of these is our humane duty to help those less fortunate than ourselves. Nowhere is this duty more evident than in Biafra where more than 1,000 women and children still die daily from starvation.

Mr. President, we all know that poverty and hunger still stalk millions of Americans. And clearly we should take whatever steps are necessary to cure these evils in our society. But our domestic concerns should not be used as an excuse for failing to respond to desperate cries for help in other quarters of the globe. We are all together on this fly-speck in space as our brave Apollo astronauts have so forcefully reminded us and we simply must redouble our efforts to support the mercy airlifts that are the only link to life for millions of our fellow human beings in faraway Biafra.

Without in any way wishing to influence the course of military and political events in the bitter civil war which now divides Nigeria and Biafra, many Americans have supported the effort by the Joint Church Aid, USA religious relief consortium which has shouldered the major responsibility for keeping the planes flying. But they must be prepared to do more if all the good work they have done thus far is not to be lost. Another $9 million is needed if these flights are to continue for the next 6 months. I hope that all concerned Americans will respond to this appeal in time.

Mr. President, yesterday the Washington Post published an excellent article, written by Henry Owen, discussing in an optimistic tone the immediate future needs of the current relief operations. I ask unanimous consent that the article be printed in the RECORD.

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

BIAFRA SITUATION IS NOT HOPELESS ONE

(By Henry Owen)

Few Americans probably read a short news item last week announcing that an emergency drive was being launched to raise private U.S. funds for starving children in Biafra; the main headlines that day were about Songmy. But even more lives are at stake in Biafra than Vietnam. As many as two million Biafran children will live, or grow up stunted in mind or body, depending on what is done in the months ahead.

There is a widespread view in this country that the situation is beyond repair. This is dead wrong. It rests on three misconceptions:

Misconception No. 1 is that the only answer to Biafran starvation is ending the war. The fact is that food relief is highly effective. It has already saved the lives of as many as two million Biafrans, mostly children.

Misconception No. 2 is that relief hinges on opening a surface corridor between blockaded Biafra and the outside world. This would be the best answer, and negotiations to this end are important. But massive relief can pass, and has passed, through the existing air corridor. Earlier this year there were as many as 40 cargo flights per night and this largely met food needs. Now there is about half that number of daily flights; but this is still saving the lives of most children in the vulnerable age group. Clearly, air relief works.

Misconception No. 3 is that there is a "right" side and a "wrong" side in the dispute between Biafra and Nigeria over relief, and that this should somehow condition our approach to the problem.

Nigeria is doing what comes naturally to any government, including our own a century ago: using force to put down secession. It is using a time-honored method—blockade—to this end, and is no more anxious than the Union was in the Civil War to weaken that blockade by letting civilian supplies through. Biafra, on the other hand, believes that it is reliving the American Revolution—trying to create a new nation. Facing a militarily hopeless situation, its leaders are not above using the plight of children to dramatize their case to the world.

Our business is not to judge these two governments, but to prevent them from destroying a whole generation of Biafran children. The lives of these children rest largely on a small fleet of airplanes, which fly in to Biafra every night from the nearby Portuguese island of Sao Tomé. Twenty-five crew members have lost their lives so far in these flights. Although they are mounted by Joint Church Aid International, an ecumenical organization which draws on several countries for crews and funds, the lion's share comes from the United States.

It will cost about $9 million to keep these flights going another six months. Perhaps by then the war will be over. Translating this $9 million into children's lives is difficult, because reliable data are scarce, but it seems to work out at a little over $10 per child; relief agencies estimate that 1,000 children are dying daily now and that this would increase to about 5,000 if the flights were to stop.

Most of the costs of Joint Church Aid are met, directly or indirectly, by the U.S. Government. But some private funds must be raised. Earlier this year, Biafran relief was "in" and that money was easy to raise. Now people seem to be bored with the whole thing, and it is hard to come by.

Few Americans would pass a child on the verge of death and not fork up a few dollars to save him. But it's hard to picture that child without seeing him, and it's harder still to send the money to an anonymous New York Post Office box number (Box 4030, Church Street Station, New York City, in case you're interested) than to hand it over in person. But this is what the whole thing hinges on.

The need is not only to keep the flights going, but to expand them—in order to save the children who are still dying. The obstacle here is a shortage of bases outside Biafra from which to mount these flights. Joint Church Aid is using its existing base to capacity. Before June, the International Committee of the Red Cross was mounting as many as 20 flights nightly from other bases. When one of its planes made the mistake of flying at dusk and was shot down by the Nigerian air force, Red Cross officials suspended flying until an agreement for daytime flights could be worked out with Nigeria and Biafra. This was a tragic—if understandable—miscalculation. That agreement was never reached.

Even if the Red Cross should decide to resume night flights, it would probably find the countries from which it formerly flew reluctant to permit new flights—for fear of offending Nigeria. Ditto for other nearby countries which might otherwise provide new bases. Perhaps vigorous efforts at persuasion by the United States and other interested countries would do some good. More distant African bases may be available, but it would only be economical to use them for high value cargo—protein, vitamins, etc.—in view of the large fuel requirement. The idea of stationing a carrier off the coast has come to nothing. Apparently no country (not even Great Britain or France) believes that it can spare one from urgent operational needs; or perhaps they are deterred by the possibility of Nigerian attack.

So the problem—whether we are talking about keeping up existing flights or expanding them—boils down to one simple question: How seriously do people outside Biafra take the whole business? It has receded from the headlines, but children are still dying. In the wake of Songmy, our response to their need may tell a good deal about what kind of country America really is.

BRONSON GENTRY RECEIVES VOLUNTEER SERVICE AWARD

Mr. GRIFFIN. Mr. President, the city of Detroit and the State of Michigan are fortunate to be able to count Bronson (Butch) Gentry as a resident. Recently Mr. Gentry was named to receive the 1969 Lane Bryant Award for Distinguished Volunteer Service.

Mr. President, I ask unanimous consent that an article published in the Detroit Free Press of December 2, 1969, and a statement by the Lane Bryant awards committee be printed in the RECORD.

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

TOP CIVIC AWARD WON BY JANITOR

Bronson (Butch) Gentry, a Detroit janitor who spends his spare time trying to improve living conditions in his east side neighborhood, has won the $5,000 Lane Bryant Award for Distinguished Volunteer Service.

Gentry, who works as a janitor for the Borg-Beck Division of the Borg-Warner Corp. and lives at 744 Tennessee, will accept the award Thursday night at a dinner at the State Department in Washington, D.C. George Romney, secretary of the Department of Housing and Urban Development, will be the guest speaker.

Raphael Malsin, president of Lane Bryant Inc., which makes the $5,000 award annually, will present it to Gentry.

He has been active for years as a community organizer. He led the fight to improve Maheras Field, a recreational facility which was deteriorating badly. He also organized a citizens' vigilance committee to maintain discipline on school buses.

Last February, Gentry won the Detroit Police-Citizen Award for outstanding contributions to police-community relations.

THE LANE BRYANT VOLUNTEER AWARDS, DECEMBER 4, 1969

The historic flight of Apollo 11 has given a whole new meaning to the word impossible. That which for so many centuries stood as a symbol of the unattainable, now is a shinning beacon of man's potential for achievement. And, while illuminating the magnificient heights to which man can aspire, the very success of the moon landing cast a harsh glare on the so-called impossible tasks we still face here on earth.

The Age of the Moon must give way to the Age of Man as the world faces its mounting social ills. Through the centuries, man has efficiently and successfully sought out physical boundaries to conquer. Now he must apply the same determination in seeking out the answers to some of the most compelling questions he has ever faced: how to rebuild decaying cities, feed the hungry, curb overpopulation, restore the purity of the atmosphere and the waters, heal the sick, revise crumbling educational systems, and initiate learning where there has been none. The list is long; the task is great.

For many quiet Americans around the world and in the United States, these *impossible* conditions do not present a new challenge, but rather a rededication to solving problems they have been successfully battling for years. It is these Americans that the Lane Bryant Volunteer Awards have sought out and honored from their inception in 1948.

In reading about the work of the winners and finalists, an important common denominator emerges—self-help through mutual involvement. True, each provided aid and support to those in need. But, wherever possible, they have gone a step further . . . they taught others how to begin working toward their own support and a life of self-reliance and dignity.

The purpose of the Lane Bryant Volunteer Awards is to bring this work to the public attention—not to "whitewash" social ills, but to highlight them and the positive action combatting them. Raphael Malsin, founder of the Volunteer Awards said of them: "They serve as a kind of x-ray into the inner workings of our society. They illuminate the trouble spots, they highlight the symptoms, they show us the best and the worst. They are a kind of laboratory where we can see healing ideas being tested. They are a tribute to the power of individuals, the best kind of individuals."

The 1969 Volunteer Awards are a tribute to those who would not—could not—be thwarted by the *impossible*.

STATEMENT BY THE AWARDS COMMITTEE

On a Monday morning in Detroit, young children cross at the once dangerous corner of Kitchner and Jefferson—safely. They might have been killed or seriously injured, as others had been, while the community was unable to secure a traffic light.

On a Tuesday evening in Detroit, parents attend a "coffee conference." They speak informally with their children's teachers—gaining valuable insights—bridging the gen-

eration gap. They might have been sitting at home, asking one another where they had failed.

On a summer day in Detroit, a group of youngsters swim in their recreation area's new pool. They might have been out vandalizing a supermarket.

On Thanksgiving day in Detroit, a woman serves her fourteen children a fine turkey dinner, though they had been living on meager funds. They might have had very little to be thankful for.

The outlook for many Detroit citizens might have been very bleak . . . if it were not for the efforts of Bronson Gentry.

The city of Detroit, like many others, has experienced its share of restlessness, disorder, vandalism and crime. With his strong belief in community self-help, Bronson Gentry organized his neighbors into groups able to take action against these social ills.

As scoutmaster of a troop he founded, Mr. Gentry guided his young men in an exhibition aimed at curbing vandalism. In addition, he sponsored a program on crime and vandalism for local merchants and churches, and was instrumental in organizing and directing a citizens' vigilance committee to maintain discipline on school buses.

An urban renewal program elsewhere in the city resulted in a housing shortage in Mr. Gentry's neighborhood, as well as overcrowded schools and increased crime. Mr. Gentry took action. He petitioned City Hall for the improvement of Maheras Field, a recreational facility that had deteriorated to the extent that it was no longer safe for children. As a beginning he requested the construction of baseball diamonds, to be followed by a new field house, and finally, a swimming pool. The city's initial response was good. However, when the next fiscal year arrived, the money was suddenly diverted elsewhere. But not for long. Mr. Gentry went to work once more, and the money was reallocated for Maheras.

Bronson Gentry waged an unrelenting campaign for neighborhood conservation, undertaking an ambitious battle to have dangerous and dilapidated houses torn down. He offered reasonable plans for the use of lots left vacant, organized alley cleanups, improved street lighting, initiated more frequent garbage pick-ups and regular police patrols. He saw to it that traffic lights were installed on busy street corners where they were desperately needed, and worked to rid the streets of abandoned and junked cars.

A leader in the volunteer anti-crime patrol which keeps a watchful eye on the city, Mr. Gentry went "into the streets" with a large group of men to "cool things down" when a summer disturbance threatened to erupt into a riot. As a result of his activities in this area, he recently received the Police Citizen Award in recognition of his outstanding contribution to police-citizen cooperation and understanding. The *Detroit News*, originator of the award, felt that Mr. Gentry displayed a unique sense of the individual's obligation to the community.

Recognizing the problems of overcrowding in the schools, Bronson Gentry led the fight for the construction of a new school. As head of a Project Advisory Committee, he prepared educational specifications for the new facility, which is now located next to Maheras Field, affording the area's children a place to play after school without having to cross dangerous intersections. Another first for the school is a community kitchen-lounge for informal parent-teacher conferences.

Bronson Gentry has demonstrated an unusual rapport with neighborhood youngsters. One of his most successful undertakings has been his work with boys involved in vandalism or petty theft. Paroled in his custody and "sentenced" to a few weeks of work in his basement, they spend every free hour working with saws and lathes, learning how to build, to create, to spend time constructively. Youngsters rarely want to leave when the "sentence" has been completed.

As chairman of the Youth Recreation committee of the Riverview Community Council, Mr. Gentry leads the area's boys and girls in projects designed to benefit needy families. Among their yearly activities is the distribution of Thanksgiving baskets to large families, widows and senior citizens.

Bronson Gentry is not a professional; he is a janitor in a local factory. He is concerned about his community, and is an indomitable force in its preservation. With his help, the future just might be a great deal brighter for the citizens of Detroit.

SCHOOL DESEGREGATION IN THE NORTH

Mr. CASE. Mr. President, the distinguished Senator from Mississippi (Mr. STENNIS) in recent weeks has commented frequently, both on the floor of the Senate and in hearings on appropriations for the Department of Health, Education, and Welfare, on continuing school segregation outside the South.

In my view, the situation which the Senator from Mississippi has pointed up should be of concern to all of us.

Indeed, many of us are concerned about segregation regardless of where it exists. The distinguished leader of my own party in the Senate, the Senator from Pennsylvania (Mr. SCOTT), as well as both Senators from Massachusetts (Mr. KENNEDY and Mr. BROOKE), just recently have expressed their concern with this situation.

As I pointed out during hearings on the Health, Education, and Welfare appropriations, I believe there is some justification for feeling that the South is taking the brunt of the desegregation effort while the rest of the country is being let off more easily.

Mr. Leon Panetta, head of the Office for Civil Rights in the Department of Health, Education, and Welfare, agreed with me on this point.

But I disagree with any contention that the situation in the North justifies diminishing the pressure for desegregation in the South.

In my view, two wrongs do not make a right. We must get at the problems in the North, but not at the expense of our efforts to correct even more severe problems in the South.

Let me demonstrate what I mean by a more severe problem in the South.

On Tuesday, the Senator from Mississippi commented on minority group enrollment in schools in my own State of New Jersey.

Because I wanted to have some basis for determining the relative severity of the problem in my State, I asked the Department of Health, Education, and Welfare, which provided the figures on New Jersey to the Senator from Mississippi, for a comparison of the situation in my State with that of Mississippi.

The analysis shows that 87.4 percent of the black students in Mississippi are enrolled in all black schools while less than 1 percent of the black students in New Jersey are similarly enrolled.

On the other side of the coin, 6.7 percent of the black students in Mississippi are enrolled in schools which have a majority enrollment of nonblack students while the comparable figure for New Jersey is 41.2 percent, according to HEW.

A comparison of Jackson, Miss., with Jersey City and Newark, N.J., shows similar results. I do not want to dwell on this point or appear to minimize the need for corrective action in my State or other areas outside the South by presenting this comparison.

My purpose is only to show that the greatest need for desegregation efforts still is in the South, and those efforts must not be diminished as we seek to make additional efforts outside the South.

I would welcome the support of the Senator from Mississippi in developing legislation which would direct greater effort toward eliminating the problem throughout the country.

Legislation to accomplish this can be worked out. I shall be glad to join Senators toward that end. I believe such legislation should be permanent in nature, not limited to a single year, as an amendment to an appropriations measure would be.

Mr. President, I ask unanimous consent that a table showing the comparison of minority group assignments to schools in New Jersey and Mississippi, which I have referred to in this statement, be printed in the RECORD.

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

MISSISSIPPI AND NEW JERSEY—SCHOOL ASSIGNMENTS BY RACE, FALL 1968

Reports	Mississippi		New Jersey		Jackson, Miss.		Jersey City, N.J.		Newark, N.J.	
School systems reporting	106 of 148		488 of 572		1		1		1	
Schools reporting	770		2,266		56		36		80	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Student enrollment:										
American-Indian	112	0.0	311	0.0	17	0.0	10	0.0	1	0.0
Negro	223,784	49.0	208,481	14.9	17,919	46.2	15,998	43.1	55,057	72.5
Oriental	384	.1	3,254	.2	19	.0	97	.3	140	.2
Spanish Sur. American	327	.1	46,063	3.3	25	.1	4,521	12.2	7,046	9.3
Total minority	224,607	49.2	258,109	18.4	11,980	46.4	20,626	55.6	62,244	81.9
Nonminority ("White")	231,924	50.8	1,143,816	81.6	20,793	53.6	16,457	44.4	13,716	18.1
Total all students	456,531	100.0	1,401,925	100.0	38,773	100.0	37,083	100.0	75,960	100.0

MISSISSIPPI AND NEW UERSEY—SCHOOL ASSIGNMENTS BY RACE, FALL 1958—Continued

Distribution of Negro students	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools	Percent Negro students assigned to	Number of schools
100 percent Negro schools	87.4	269	0.9	5	94.6	19	0.0	0	0.2	1
99 to 100 percent Negro schools	92.4	281	5.7	14	94.6	19	12.0	2	11.8	6
90 to 100 percent Negro schools	92.7	283	32.8	79	94.6	19	41.5	6	76.2	39
80 to 100 percent Negro schools	92.7	283	40.2	108	94.6	19	41.5	6	80.6	44
50 to 100 percent Negro schools	93.3	292	58.8	210	97.0	22	68.7	13	92.8	60
0 to 49.9 percent Negro schools	6.7	478	41.2	2,056	3.0	34	31.3	23	7.2	20

Distribution of nonminority (white) students	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools	Percent white students assigned to	Number of schools	Percent white students assigned to	Number to schools	Percent white students assigned to	Number of schools
100 percent white schools	12.1	86	9.9	283	12.6	5	0.0	0	0.0	0
99 to 100 percent white schools	25.8	138	34.9	722	55.8	19	.0	0	.0	0
90 to 100 percent white schools	79.3	358	75.2	1,464	95.0	30	21.9	5	12.7	3
80 to 100 percent white schools	94.9	439	87.2	1,705	95.8	31	44.7	7	39.8	7
50 to 100 percent white schools	99.6	478	97.0	1,984	98.4	34	78.9	16	59.1	10
0 to 49.9 percent white schools	.4	292	3.0	282	1.6	22	21.1	20	40.9	70

FORMER VICE PRESIDENT HUMPHREY DISCUSSES FOREIGN AID

Mr. McGEE. Mr. President, Hubert Humphrey, who served among us as a Member of the Senate and as Vice President, has authored a newspaper column, published in today's Washington Daily News, to which I invite the attention of the Senate. The article expresses very well my own feelings on the subject of foreign aid and urges us not to take the easy road of reducing President Nixon's foreign assistance request this year. Mr. Humphrey deals with the reality of foreign aid's political unpopularity. But he deals as well with the need to spur an end of want in other places around the globe in the name of peace. I ask unanimous consent that his column be printed in the RECORD.

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

WE MUST HAVE THE COURAGE TO CONTINUE OUR PARTNERSHIP WITH OTHER NATIONS

(By Hubert Humphrey)

Frustration over the war in Vietnam has made it fashionable to talk about the use of American power in terms such as the arrogance of power, the limits of power, the discipline of power.

This is useful, but we must not delude ourselves into believing that by not exercising our power we are not influencing developments in the world.

The world has become too small. We cannot turn our back on the hunger and poverty, and the rising expectations.

While we do not want the military overcommitment of another Vietnam, we must continue to seek peace thru national development, national security, and control of the arms race.

We cannot buy peace with an $80 billion a year defense budget. It has been proved over and over again that real peace does not come out of the barrel of a gun.

As Pope John XXIII said, "Where there is constant want, there is no peace."

Helping other nations is not always easy. There is controversy, there is waste, and American aid does not mean other nations will march to the beat of our drum.

Since the end of World War II, we have given $56 billion in economic aid and $36 billion in military aid to other countries. In addition, we have loaned out another $40 billion.

Several weeks ago, the House authorized $2.2 billion in foreign aid for this current 1969–70 fiscal year. This is $400 milion under what was requested by the Nixon administration. The Senate now must act.

President Nixon requested $375 million for military assistance plus $605 million in economic assistance for Latin America, $625 million for the Near East and South Asia, $440 million for Vietnam, $234 million for East Asia, and $185 million for Africa.

The President recognizes the political unpopularity of foreign aid. During the campaign he said, "Let us remember, the main purpose of foreign aid is not to help other nations but to help ourselves."

His 1969–70 foreign aid request is the smallest of the options presented to him at a March meeting of the National Security Council, and it represents a cut of $138 million from the budget request of the outgoing Johnson administration.

President Nixon is probably right in his political assessment. A large foreign aid request would have come under sharp attack in Congress.

But, as a nation, we cannot be very proud of our steadily declining investment in the development of other nations. We cannot be proud of the fact that we spend 40 times more on our military as on our efforts to bring about peaceful change. We cannot be proud of the fact that six other nations invest a greater share of their resources in helping others.

The have-not nations have been growing at an economic rate of about 5 per cent a year. Except where oil has been discovered, no poor country has been able to make significant progress without foreign aid.

This growth rate can be accelerated if we do not continue to cut back our foreign aid investment.

We now invest less than four-tenths of 1 per cent of our gross national product in foreign aid. The Commission on International Development headed by Canada's former prime minister, Lester Pearson, recommends a goal of seven-tenths of 1 per cent by 1975—almost double our current level.

I think we should meet that goal. We can afford to take at least an additional $2 billion of the $80 billion a year we are spending on the military and invest it in peaceful change.

To avoid the political problems, that sometimes go with foreign aid, we should channel more of our investment thru multilateral development agencies such as the World Bank, the Asian Development Bank, the Inter-American Development Bank, and others.

We should try to separate our short-term political interests from our foreign aid program. We have learned by now that we cannot buy allies, but we can invest in development. Development is the new name for peace.

We should re-examine the practice of tieing aid to the purchase of goods in this country. It adds to costs. Foreign aid donors should reduce and gradually eliminate these restrictions.

Terms on loans must be liberalized. Too many have-not nations are so deeply in debt that they must use long-term loans to pay off short-term loans. Future loans should be at interest rates of 2 per cent or less over a term of 25 to 40 years.

None of these steps will have any lasting significance if we do not defuse the population time bomb.

If birth rates are not cut, we will see growing famine, social unrest, and political instability. It is estimated that the world population will double by the year 2000.

If a nation can cut its birth rate in half, it can raise its living standard by 40 per cent in a single generation.

Family planning is one of the best investments we can make in the developing nations.

We must have the moral and political courage to continue our partnership with other nations.

The majority of the world's people still go to bed hungry each night; four million people will die of starvation next year.

Helping these poor countries achieve some semblance of economic progress and stability is the only sensible thing we can do in this increasingly warlike world.

I urge the Senate to not take the easy political road of reducing President Nixon's foreign aid request. As President Kennedy said, "Peace and freedom do not come cheap." We can do better.

DEATH OF MRS. BEATRICE KENEN

Mr. SCOTT. Mr. President, it is my sad duty to inform this body that Mrs. Beatrice Kenen, the wife of Mr. I. L. Kenen, executive director of the American-Israeli Public Affairs Committee, died Monday at the George Washington Hospital.

The Kenens have been our friends for many years, and I want to take this opportunity to notify the Members of this body of her untimely death. The last time I spoke with Mrs. Kenen was at the White House reception in honor of Mrs. Golda Meir, Prime Minister of Israel.

Mrs. Kenen was known especially for her role in the Hadassah organization which supports hospitals and children's activities in Israel. She served as staff director of 23 U.S. national Hadassah conventions.

The former Beatrice Bein, Mrs. Kenen was born in Brooklyn, N.Y. She graduated from the University of Toledo in 1926. In 1927 she married Mr. Kenen, a newspaperman who later became a leader of pro-Israel groups. In addition to serving as executive director of the American-Israel Public Affairs Council,

he is editor of "Near East Report," a widely read periodical.

Mrs. Kenen also leaves a son, Dr. Peter Kenen, who is the provost of Columbia University. The Kenens have made their home in the National Capital area since 1953. They lived previously in Cleveland, Ohio, and Riverdale, N.Y.

Funeral services will be held at 2 p.m., Wednesday, at Temple Sinai in Washington, D.C.

Mrs. Scott and I offer our condolences to Mr. Kenen and the Kenen family for their loss. She was a great Jewish woman. We loved her dearly.

BOB ROBERTS TELLS IT LIKE IT IS

Mr. MURPHY. Mr. President, in September, Mr. Harry Barker who is general manager of radio station KQMS in Redding, Calif., broadcast an editorial originally aired by Bob Roberts of radio station KVI in Seattle, Wash. Many in our Nation have been asking searching questions about our country and demand: "tell it like it is."

Mr. President, Mr. Roberts has done that and, to his great credit, so has Mr. Barker. I ask unanimous consent that the KQMS editorial be printed in the RECORD.

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

KQMS EDITORIAL

The following is an editorial by Harry Barker, General Manager of KQMS Radio:

It isn't often that we re-broadcast an editorial broadcast previously on another station, but we believe this one written and delivered by Bob Roberts of KVI—Seattle, Washington, is worthy of your consideration, and ours as well. We quote Mr. Roberts:

There's something that needs to be said about this country. And since no one seems to have the gumption to say it, I guess it's up to me . . .

I have had it up to here with persons who are trying deliberately to tear my country apart. And it's way past time to throw at me that tired old wheeze about being a flag-waver. You're damned right I'm a flag-waver, and I got a right to be one the hard way.

I have had it with pubescent punks, wallowing in self-pity, who made a display of deploring their birth into a world which . . . to use their sissy expression . . . they didn't make.

Well, I didn't make the world I was born in either. And neither did the men who are worthy of respect. They just went about and made something out of it.

The men I grew up with were fetched up in a logging camp. They were the immigrant sons of every cast-off race there is. And they didn't have a hell of a lot of knowledge at home to start them off, either . . .

But I can write you a song about the son of a Po Valley coal miner who became a nationally renowned physicist; about doctors, lawyers, teachers, forestry specialists, conservation experts and men of the cloth . . . in the Seattle-Tacoma area . . . who came out of that logging camp. And about the son of a Danish mechanic who is one of the best friends I've got . . .

So don't give me your whinning, whimpering, self-pitying-claptrap about how this country is letting you down . . .

I have had it with hippies, brainless intellectuals, writers who can't write, painters who can't paint, teachers who can't teach, adminstrators who can't administrate, entertainers who fancy themselves as sociologists, and Negroes who castigate as "Uncle Toms," the very men who have done the most to demonstrate to all of us the most important quality in America . . . individual enterprise and responsibility . . . Dr. George Washington Carver, Archie Moore, Bert Willis, Booker T. Washington, Roy Wilkins, Justice Thurgood Marshall, Duke Ellington, Count Basie, Nat Cole, the Mills Brothers and their father . . . and many more . . .

I've had it with those cerebral giants who think it's smart to invite drug advocates to lecture in their classrooms, and with teaching curiosities like that one in the Mercer Island School District who invited a Black Power spokesman to dispense a lecture of flag-burning . . .

I've had it with people who are setting about deliberately to rip mankind's noblest experiment in decency . . .

And I'm going to tell you something. If you think you're going to tear down my country's flag and destroy the institutions my friends and members of my family have fought and died for, you're just going to have to climb over me first . . .

And, buddy, you'd better get up awful early in the morning.

We wholeheartedly agree with Mr. Roberts, and appreciate his permission to deliver it to the people of Northern California.

POLLUTION

Mr. MOSS. Mr. President, I wish to commend the nine Members of the House of Representatives who, in a press conference last week, called for a 10-year national commitment to clean up the environment. Their concern with the growing pollution of this planet is well founded and in full accord with the warnings that I have been issuing for many months past.

If we continue to pollute our water and our air and pile up our wastes, our globe will eventually become uninhabitable. This may sound farfetched, especially coming from a Senator who represents a Western State of wide-open spaces, but the telltale figures are there. There is scarcely a river left in the United States that is not polluted, and some of them to the point of being totally unusable for any purpose, other than as a sewer. Even our greatest rivers, such as the Hudson, the Potomac, and the Mississippi, are polluted to the point that contact with their waters in many places is dangerous and must be prohibited. Lake Erie is all but dead now.

And our air in our cities is polluted. Recently I read an article in the press that attributed the death of some children in Chicago to polluted air. And we know that figures show that at various times when pollution is heavy over London, there is a sharp rise in the incidence of death and disease. So pollution is taking its toll in our big cities, and indeed more and more into our countryside. Even in my beautiful city of Salt Lake City our skies are black and temperature inversion puts us under a blanket hidden from the sun. We have known for years the pollution in Los Angeles and New York, but now we are aware that it is in the small cities of our land as well.

And finally, there is the problem of solid waste disposal. The open garbage dump is no longer tolerable, but the cost of disposal increases when treatment is necessary. Some cities send their solid waste by train many miles in order to find a place to dump it in an unpopulated area. For years some cities have taken their garbage to sea and dumped it in the ocean. Incineration is used and cut and fill disposal on the land is useful. But whatever method is used, there must be sanitary disposal and the solid waste must not be used to become an air pollutant.

These are problems to which this country must address itself now. In fact, all the countries of the world must face up to the problem now. As our population continues to increase and as our use of goods with their wrappers and bottles and surrounding material increases, we must have ways of disposing of our garbage without polluting our waters and our skies. Recently I addressed a dinner meeting in New Haven, Conn., on this subject. I ask unanimous consent that this speech be printed in the RECORD.

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

OUR ENVIRONMENTAL CRISIS

Ladies and gentlemen, I propose to talk to you tonight about the Nation's environmental crisis—about the staggering pollution of our air and our water.

I am sure you know about this galloping national disease—there is scarcely a citizen or a community in the United States which has not been affected to a greater or lesser degree.

When the Mormon pioneers arrived in Salt Lake valley in 1847 it was barren and dry. But the air was clean and the streams from the mountains ran clear and sparkling. Today smoke and smog choke the skies of this magnificent Utah land of Zion, and the sparkling streams empty into the river Jordan and into the Great Salt Lake grimy and laden with refuse.

What has happened is a by-product of industrial civilization—a by-product almost no part of the country has escaped, including I am sure, your own beautiful and prosperous Connecticut.

The mass of our people out across this country really only became aware of the massive pollution of our waterways and our air about ten years ago.

Since that time we have experimented and legislated in the hopes that we could develop the means to save what is left of our life support system. But although we have passed more laws, and spent more money and conducted more experiments than ever before, the fact remains that we are losing the battle.

We are actually further behind now than we were ten years ago in cleaning up our waterways and keeping pollutants out of the air. Experts are plainly frightened. Smog is no longer a joke. Water is unfit to drink. Rubbish is burying the affluent society which produced it.

Something new and greater must be done—and done soon—if mankind is to survive.

Lake Erie is all but dead. One scientist has suggested that the only way it can be saved is to punch a hole in the bottom, and let the heavy gook drain out, as it would in a bathtub.

The fabled Potomac is an open sewer as it runs through the Nation's Capital. Fish are dying and our birds are disappearing.

The great Mississippi River is already badly polluted by the time it reaches St. Louis, but from that point onward, it is so filled with petro-chemicals and other industrial oils, chemicals and slaughterhouse

wastes that State health departments and the Federal public health service have posted signs forbiding people to even eat lunches along the banks of it, let alone go wading in the water, or water skiing.

The concentration of infectious bacteria in just the spray from the river, when deposited on a person's face or lips, can cause typhoid, colitis, hepatitis, diarrhea or infections in the bloodstream.

The same is true to a greater or lesser degree of all of our rivers—large and small—just name any one of them.

We have water, water everywhere, and not an unpolluted drop to drink.

No death certificate has yet ever cited polluted air in the United States as a cause of death, but the U.S. Surgeon General says frankly that air pollution is killing and disabling Americans in every area of the Nation. Our lung cancer rate is twice as high in large metropolitan areas as it is in rural areas, and experts tell us it contributes significantly as a cause or aggravating factor in acute respiratory infections, chronic bronchitis, chronic constrictive diseases, ventilatory diseases, pulmonary emphysema, bronchial asthma as well as in lung cancer.

We hear people say:

"Technology created pollution. It can also solve it."

Technology has offered us many ways to control pollution—spectacular ways. It has shown us both how to control municipal wastes, and how to cease degrading our environment with industrial processes. But the adjustments which must be made are so enormously expensive that we have just nibbled at them.

The Federal Government has not been willing to spend the money that must be spent, nor have the States and the communities.

Some segments of our industrial community have responded and are already making changes in their processes to curb environmental contamination, but other segments have placed profits before people, and continue to save money by making dirty air and polluted water pay part of the price we give for the constantly improving products and services we all enjoy. Even tax incentives have not moved them to action.

How much would an all-out assault on pollution in the United States cost?

Hold on to your chair while I tell you.

If all forms of pollution were to be tackled, the combined municipal, State, Federal, industrial and private expenditures could rise as high as ten billion a year for twenty years—or a total of 200 billion dollars.

Ladies and gentlemen, the time has come to review our national priorities. We *can* have a clean environment. We do *not* have to pollute our streams. We do *not* need to litter our landscape. We do *not* have to suffer the pollution of our air.

The only serious question which remains is the emphasis we are willing to place on these programs and the amount of money we are willing to pay to implement them.

In the late 1950's the Nation decided to embark on a space program which would put us ahead of our competitors. I think that we can say that 10 years and nearly $30 billion later, we are ahead.

Twenty years ago, following a massive war, we decided that never again would the peace be sacrificed due to the lack of military capacity to respond to threats to the peace. I think we can say today that we have the military capabilities to so respond.

A lengthy discussion of our computer technology, our transister technology and our transportation technology would only indicate the extent to which we have the capacity to deal with problems which confront us. The critical difference between that which we have done in space and defense and medicine and what we *need to do* to protect the environment is the sense of urgency and immediacy with which our leaders view the challenge.

If the Federal Government indicated immediacy by making a total financial commitment to the development, installation and operation of pollution control facilities for all communities and for all industries, on the scale of the space program of the defense program, we would achieve pollution control.

Are these unrealistic responses to a problem whose solution should be a cost of doing business or living in this country?

Industry uses air and water to produce goods and leaves waste by-products in the air and the water. Pollution should be one of the costs of doing that business. The cost of controlling pollution should be a part of the cost of the product.

Communities are people. People pollute whether they burn their garbage in their backyard, burn it in community incinerators, or deposit their wastes in the river that flows nearby. This pollution is a cost of living, and the residents of a community have an obligation to pay the cost of pollution abatement.

Investments by cities, industries, and the Federal government should be items of highest priorities. But how high on the list of national priorities is it? Where does pollution rank with defense, space, urban renewal, mass transportation, welfare assistance, food stamps, law enforcement, and a host of other vital public issues?

Apparently no such assessment has been made by this administration. We know that defense expenditures are important. We are told that both the Mars landing and the search for biological life on the planets are important. And now we have been told that Federal investment in a supersonic plane is important.

But there is little indication of how far the present administration is willing to go to meet domestic problems which will not wait for solution. Pollution pays no attention to timetables dictated by political pressures or lack of leadership.

The President's environmental quality council has announced that we will have a low-emission motor vehicle by 1990: Approximately 15 years later than is urgently necessary.

But that council has said nothing about funds needed to construct municipal waste treatment facilities. It has said nothing about proposals to allow a rapid write off for industrial pollution control equipment.

Leadership and commitment must be forthcoming if this Nation wants to avoid an environmental debacle during the next two decades.

Just a couple of weeks ago the United States Senate took a giant stride toward water pollution control. We voted to appropriate 1 billion dollars for the fiscal year 1970 to implement the Clean Water Restoration Act of 1966. This is the first time that Congress has *appropriated* as much money as the Congress had *authorized* for a water pollution control program.

When we passed the bill some four years ago we led the States and municipalities to believe that we would make a billion dollars a year available for matching construction grants for waste treatment plants.

That we finally did so this year was a signal victory for national priorities over budgetary expendiency.

However, even a full funding only a small part of our nation-wide needs can be met. The States responded to the incentive we offered in the 1966 act. They have approved bond issues. They have raised taxes. They have set water quality standards on the assumption that the Federal Government would meet its commitments.

So, if this full $1 billion remains in the appropriation bill—and it has yet to run the gamut of the House-Senate conference committee—the Federal Government is only beginning to meet its commitment to the States.

Some of us in the Senate are also trying to increase funds for the Air Quality Act of 1967, which is the basic air pollution control legislation. The administration requested only 18 million for fiscal 1970. I have asked that the full authorization of 45 million be appropriated by the subcommittee handling this bill. We will know in a few weeks how successful this has been. If we don't win in committee, we will fight on the floor of the Senate.

So, as I say, we are making some progress, but by no means enough progress.

We really do not yet have the sense of public urgency in this country—the fear, the anger, the outrage—that we must have if we are to reclaim our environment.

There's a story about Noah Webster, the dictionary man. Bathing, it's said, was abhorrent to him. One time a woman standing behind him at a gathering, said to a companion, "That's Noah Webster, he smells badly." Webster turned and said: "Lady, you smell badly: I stink!"

The story usually is told to emphasize the misuse of the adverb. I tell it to emphasize a word: stink. Some people think it is not a nice word. To me it is a working word; it has impact. Nice words, like nice guys, as Leo Durocher once said, don't win.

Without stink, it might be said that we would have very little pollution control. If people cannot smell it, or see it, or taste it; if it does not cause illness—in short, if it does not affect them directly, they do not care whether anything is done about it or not.

Sometimes even when they can smell it and see it they will do nothing about it unless forced.

The same people who vote down sewage plants and school bonds, buy television sets, transistor radios to carry about, power lawn mowers for postage stamp lawns, clothes dryers, and air conditioners. Some of them probably spend more in a year on cigarettes than the bonds would cost.

I do not criticize their spending. I merely point out that they will put up money for things they want—in fact, will go into debt. And in this nation the art of making people want things, including what they don't need, has been developed to the point where it dominates our economy, if not our culture.

We are on a collision course with our environment, and I am troubled by inaction on nearly all environmental fronts.

Not that we aren't spending a great deal more money on the protection of the environment than we did a year ago or ten years ago—we are.

Not that we are not more capable of policing environmental hazards than we were a year ago or ten years ago—we are.

Not that we aren't more capable of understanding environmental pollution than we were a year ago or ten years ago—we are.

But we are simply not doing enough. We are simply not racing fast enough against time.

We won't stave off catastrophe until all of us are sufficiently aroused about the rape of our environment—as aroused as we all are now about the rape of Mylai.

We must feel as strongly about ending pollution as we do about ending the war in Vietnam.

We must all of us—the Federal Government and all other levels of Government, our industrial leaders and all other levels of industry, our scientific leaders, and all members of the scientific community, and the rank and file of our people—the entire mix that makes up America—we must all start agreeing on what must be done, and be willing to finance it, individually and collectively.

If we do not, I predict that in a few years you will be seeing moratoriums to end the pollution of our environment, and pollution protests instead of war protests.

THE SILENT MAJORITY

Mr. McGOVERN. Mr. President, the discussions in recent weeks of the virtues of silence—especially when it has majority approval—makes pertinent the observations of Mr. Arthur Hoppe in today's Washington Star.

I ask unanimous consent that Mr. Hoppe's column be printed in the RECORD.

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

THANK GOODNESS FOR MR. AGNEW

Mr. Agnew has again spoken out outspokenly against "the outspoken minority" which is trying once more to lead The Silent Majority astray.

It's fortunate The Silent Majority has a spokesman of Mr. Agnew's caliber to keep reminding it of its righteousness. And he's absolutely correct. Down through history, The Outspoken Minority has time and again attempted to confuse, boggle and mislead The Silent Majority with results that could have proved disastrous.

All this is well documented in that well-documented work "A History of The Silent Majority", or "They Said It Couldn't Be Done." Excerpts follow.

The Silent Majority, as we know it today, dates from biblical times. One of the earliest allusions appears in the story of Noah.

Noah, a hare-brained fanatic, warned of a dire flood and built a huge ark on dry land. And, oh, how The Silent Majority laughed as he sat marooned on his vessel over the years while the flood he awaited never came.

In classical times, The Silent Majority flowered, reaching its peak during the Roman Empire when it fully approved a welfare program of bread and circuses and trusted hired mercenaries to dispose of such minor problems as the Huns and Visigoths.

Down through the Middle Ages. The Silent Majority was silently active.

In religion, it gave its silent support to the Inquisition and the massacre of the Huguenots, all to the greater glory of God. And if it hadn't enthusiastically backed The Crusades, the Middle East today might be in the hands of the Moslems.

It is this quality of supporting the right war at the right time that has so enhanced the reputation of The Silent Majority. Let us merely point out that if The Silent Majority in France hadn't wholeheartedly cheered on Napoleon, it's doubtful the Russians would now all speak French.

The contributions are endless. In science, who suppressed the wild theories of Copernicus and Galileo? In medicine, who scoffed at the weird concept that diseases are caused by evil little organisms no one can see? In the arts . . .

But why go on? The examples of The Silent Majority's steadfast stand for the truth are legion.

So Mr. Agnew's right. Trust The Silent Majority.

Why if it weren't for The Silent Majority's enthusiastic approval, we wouldn't be fighting a glorious crusade today in Asia.

And if you don't believe it's a glorious crusade, you can ask the one true hero of The Silent Majority—the man who received more votes from The Silent Majority than any other candidate in history—our beloved President, Lyndon B. Johnson.

So thank goodness for Mr. Agnew. It can be safely said that he's the most brilliant, forceful, representative spokesman for The Silent Majority in this whole flat world.

PROPOSED DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT

Mr. MOSS. Mr. President, a report published in yesterday's Washington Post indicates that the Nixon administration is moving toward support of a departmental reorganization which I have long favored. Carroll Kilpatrick wrote that protection of America's physical resources will become a more dominant Nixon theme next year, and that Secretary of the Interior Hickel has recommended establishment of a Department of Natural Resources and Environment. In 1965, I introduced legislation to create such a department. My bill was reintroduced in the 90th Congress and again this year. The progressive deterioration of the environment, plus the Nation's expanding need for raw materials, makes the establishment of this agency ever more important. I commend the President for making natural resource protection a matter of high priority and pledge full support for the creation of a Department of Natural Resources and Environment.

Mr. President, I ask unanimous consent to have printed in the RECORD two articles published in the Washington Post of Sunday, December 7, 1969—the one by Carroll Kilpatrick, which I have mentioned, and one concerning a major installation of Bethlehem Steel which will reduce the pollution pouring into Lake Erie.

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

NIXON TO PRESS IMPROVEMENT IN QUALITY OF 1970 EVIRONMENT

(By Carroll Kilpatrick)

The quality of the environment and the need to protect the nation's land, water and other physical resources is now expected to be a dominant Nixon administration theme next year.

The President began work several weeks ago on the State of the Union address—his first—which he will deliver to a joint meeting of Congress next month.

As the message began to take shape, the environment was the major domestic theme, officials said last week.

Mr. Nixon himself pulled aside the curtain a bit when he told the nation's governors and their wives that when he speaks to them next, in February, it would be on how to challenge young Americans "to move forward on the whole subject of the quality of life in America," including environment.

Earlier this year, Mr. Nixon established the Environmental Quality Council and has met a number of times with it.

In addition to attacking air and water pollution, the President said that the emphasis should be on "how we can move forward on all fronts so that life in this country in addition to being very rich and very strong can also have that extra dimension of idealism" that caught the imagination of the world at the time of the birth of the Republic.

A high official said that one example of what the President was talking about was a $15-billion Interior Department plan to attack water pollution.

Secretary of the Interior Walter J. Hickel has proposed a plan whereby the federal government would cooperate with the states and local communities in attacking this serious problem. It would be a 20-year, pay-as-you-go plan with the federal government guaranteeing the principal costs and the local governments guaranteeing the interest costs on the necessary bonds.

Hickel has estimated that it would cost $10 billion to protect the rivers and lakes from the discharge of sanitary sewers and $5 billion from the discharge of storm sewers. He said storm sewers can be almost as polluted as sanitary sewers.

Hickel has argued that a "national commitment" must be made, with the federal government providing guidance and the capital investment and local communities doing the work.

This fits the President's concept of the new federalism, Hickel believes. The pay-as-you-go feature amortizes the huge cost over a period of years, making it possible to launch the program without large initial expenditures.

Hickel also has recommended the establishment of a new Cabinet department, that would be known as the Department of Natural Resources and Environment, to take over much of Interior's work and other environment work scattered in other departments.

BETHLEHEM STEEL PUSHED INTO CURBING LAKE ERIE POLLUTION

(By Philip D. Carter)

LACKAWANNA, N.Y.—All but hidden amidst the sooty, clamorous expanse of Bethlehem Steel Corporation's Lackawanna plant is a $27-million monument to public rage, state power and the alchemic art of public relations.

The monument is a scattered complex of new devices for reducing the corporation's share of the pollution of Lake Erie.

The devices are there because a concerned public demanded them and an aroused state government required them. Mining gold from a leaden duty, the corporation last week treated newsmen to a tour of what one executive proudly described as a "real ringdinger of an anti-pollution plant."

The occasion, as such things go, was auspicious.

According to the corporation's figures, 6.5 per cent of Bethlehem's entire capital investment for the past five years has gone for water and air pollution abatement. In the next five years, executives predicted, the figure will rise to 11 per cent.

At the corporation's shiny new $1-billion plant at Burns Harbor, Ind., a centralized $43-million water-treatment facility is holding the plant's pollution of Lake Michigan well within the margins permitted by the state. The treatment plant—unlike the Lackawanna facilities—was part of the steel mill's original design.

The corporation's executives do not try to deny their past sins—which, particularly on Lake Erie, have long been conspicuously visible.

Together with the 600 other industries and scores of communities ringing the lake, the corporation for decades used Lake Erie as a handy giant sewer, discharging uncounted tons of wastes into its waters with scarcely a second thought.

Combined with the unceasing runoff from farmlands laden with fertilizers and insecticides, plus chronic spillage from oil wells and tankers, this steady corrosion of the natural balance of the lake's ecology has taken a devastating toll.

Once-clean beaches have been closed to the public. Fish have died by the millions. Heavy silting has vastly accelerated the natural, gradual filing-in of the shallow lake's floor.

Today, the hottest scientific argument about Lake Erie is whether it is dead or merely dying. Bethlehem Steel, like other corporations, is belatedly paying for its share of the blame.

The company's abrupt turn-around is

directly traceable to a September, 1966, edict from the state department of health that Bethlehem clean itself up by January, 1970, or shut down.

The order had a sharply bracing effect on an industry which—like others—previously saw no profit in controlling pollution.

A less tangible—but equally significant—motivation for Bethlehem's rapid efforts to clean up the Lackawanna plant was its growing awareness that pollution had suddenly become bad public relations.

"Hell, every time Bill Mauldin draws a pollution cartoon, there's a blast furnace in the background belching black smoke," a Bethlehem executive observed last week. "We were what you might call highly visible."

Particularly on Lake Erie.

After Niagara Falls, just north of nearby Buffalo, the Lackawanna plant is easily the most prominent landmark on the eastern shore of the lake—a hunking, gray, five-mile-long jumbo of coke ovens, blast furnaces, slabing mills, sheet mills and bar mills employing 19,000 workers.

"We were a big, fat target," an executive confided, "and we took our licks."

As a consequence, Bethlehem officials talking to the press are as likely to discuss "environmental quality control" as corporate earnings.

The public relations department has led the refrain. "Item No. 1" in a fat publicity kit given newsmen on last week's tour of the Lackawanna and Burns Harbor plants began with this announcement:

"Process water returned to Lake Erie by new water quality control facilities at Bethlehem Steel Corporation's Lackawanna plant is as clean as the original lake water."

Not all the Lackawanna facilities were in operation at the time of the visit. Because of a construction strike and delays in winning state approval of several anti-pollution projects, the bulk of the water used by the plant was being returned to Lake Erie untreated.

Company officials estimated that normally half the 325 million gallons of water "borrowed" daily from Lake Erie is polluted during use in the plant. Of that 162.5 million gallons, only 16 million were being treated last week. But the rest, executives assured visitors, would be under treatment next year or not much later.

Most of the facilities now in operation or under construction are high-rate filters, much like those for swimming pools, for removing solid particles and oil from water used in processing hot steel.

Other clarifiers, officials said, will be installed to clean waste water from basic oxygen and blast furnaces. In addition, they said, the toxic water collected from coke ovens will soon no longer be discharged into the lake.

Two other anti-pollution plans of the corporation have encountered significant objections. Although approved by the state, a plan to use a deep disposal well to dispose of water containing hydrochloric acid has been attacked by geologists who argue that too little is known about the region's subsurface geology to risk the project.

The company has argued in response that the acid wastes will be injected into saline water trapped below "protective and impervious" rock layers 3,800 to 4,300 feet below the earth's surface where they will pose no threat.

The plant's other remaining pollution problem remains unresolved. Like other industries, the Lackawanna plant has been dumping solid wastes—primarily slag from steel furnaces—into the lake. The company contends that fishing has actually been better around the slag piles than elsewhere in the lake, but conservationists have objected.

SQUARE MILE SOUGHT

Now the corporation hopes to acquire from the state a square mile of shallow lake water within which it can dump its wastes and seal them off behind a watertight barrier. Again, conservationists and others have objected and the state has not yet approved the project.

Barely mentioned in the course of last week's tour was the Lake Erie plant's system of disposing of human wastes collected in its sanitary sewer system. When questioned, officials revealed that the sewage is simply released into the sewer system of the city of Lakawanna. The city dumps its sewage in the lake.

Company officials repeatedly argued during the tour that municipalities—not industries—are the nation's biggest polluters. But it is industry, they said, which is called upon to foot the bill.

"These (anti-pollution) facilities," said John E. Jacobs, Bethlehem's vice president for operations, "contribute absolutely nothing to our profitability or our efficiency. . . . Sometimes it seems to us that industry is the only segment of our society called upon to spend the money to control the pollution that we all are making."

The fact, however, is that in New York state, voters five years ago endorsed a $1-billion bond issue that is the backbone of the nation's most ambitious state water pollution program. The program focuses on cleaning up the state's sewage-clogged rivers and lakes.

Originally, the program was intended to spread the burden for pollution control among three different sets of taxpayers—state, local and federal.

Although Congress has repeatedly authorized the Federal Water Pollution Control Administration to pay as much as 30 per cent of New York's anti-pollution costs, actual federal contributions have averaged only about 7 per cent.

However, Congress last week appropriated a record $800 million to assist states and communities to construct waste treatment plants and facilities. The Nixon administration had proposed spending $215 million on the plan.

Of the amount appropriated, New York's share will be a relative drop in the bucket. Hard-pressed New York municipalities, which were supposed to contribute 40 per cent of the funds for the state's original anti-pollution program, have in fact relied largely on state assistance. As a consequence, even with new federal assistance the state's $1 billion for treating municipal sewage will have virtually disappeared by the end of 1970.

By then, Bethlehem's Lackawanna plant will no longer be polluting Lake Erie, and its anti-pollution plant will be a practical as well as a public relations success. But like public waters elsewhere in the state, Lake Erie will be little clearer or cleaner than before.

It may be too late to win an audience, but Bethlehem Steel would like the world to know that it does not feel entirely responsible.

THE VICE PRESIDENT AND THE MEDIA

Mr. DOLE. Mr. President, I read the statements of the Senators from New York (Mr. JAVITS and Mr. GOODELL) criticizing the Vice President of the United States for his speeches about the news media and assuring the media that they have "champions" in the Senate and do not need to be inhibited.

Mr. President, I was very much interested in their comments and certainly want to take them in "good faith, equanimity, and understanding" as one of the Senators requested. But what the Senators ask the Senate and the administration to do, I fear they have not done with the Vice President's speech. References to the Vice President's "Menacing tones," "abusive words for commentators," and "divisive rhetoric and simplistic solutions" are "not particularly conducive to rational debate."

Mr. President, I have read the text of all the speeches delivered by the Vice President about the media. Throughout his speeches he emphatically denied advocating any kind of news censorship.

Rather, as I interpreted the Vice President's remarks, he was seeking to stimulate discussion on the responsibility of the media in reporting the events of our day to the American people. It is apparent from the ensuing discussion that he has achieved this objective. But what concerns me is the overreaction of many in the communications industry. Instead of stimulating self-analysis, many have tried to cloud the issue by trying censorship and intimidation. At the same time, those who saw political advantage in defending the media set out to attack the Vice President by disregarding the thrust of his speeches.

I was happy to note that the Senators from New York admitted that the Vice President had raised some important questions and had every right to do so. What they specifically criticize, is the "manner" in which he did it.

Mr. President, I do not agree that the context of the Vice President's speeches has been improper. They have received wide coverage because of their dramatic content, thus fulfilling the Vice President's objective and it is hoped, providing the basis for a dialog on the proper role of the media in a free society. I hope we shall hear more from the Senators from New York in the form of substantive recommendations on the "cure" for the failings of our media. I found none in the remarks of the Senators. Our purpose is not to "sanitize" the news, as it has been implied would be the result of the Vice President's recommendations, but to present all the facts to the American people in an honest and thorough manner, not seeking to play one-upmanship with one another by selecting only the most dramatic occurrences and editing them in the most consumable package.

ARMISTICE DAY SPEECH BY LT. GOV. J. JOSEPH GARRAHY, OF RHODE ISLAND

Mr. PELL. Mr. President, the other day in Newport, R.I., Lt. Gov. J. Joseph Garrahy, gave an excellent and courageous speech concerning our problems of today. I thought he was particularly thoughtful in his discussion of our present position in Southeast Asia.

Because I believe that his speech would interest Senators, I ask unanimous consent that it be printed in the RECORD.

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

ARMISTICE DAY SPEECH

Fifty-one years ago today an armistice was proclaimed which ended World War I—A conflict in which 115,000 American men died to make, in the tragic phrase of Woodrow Wilson, "The World Safe for Democracy." That

terrible conflict was called by contemporaries "The War to End All Wars," and the armistice which we commemorate today was hopefully regarded as the dawn of a new era of peace and international accord. But the optimists who dreamed this dream were wrong, and other wars and other truces followed and many more Americans died in a noble but perhaps vain pursuit of those elusive ideals of peace and democracy.

The great tragedy of today is its lack of permanency. For in twelve of the fifty-one years since that "lasting" peace was triumphantly proclaimed, the United States has found itself actively embroiled in a major foreign war.

This record seems to vindicate the view of the famous sociologist Harry Elmer Barnes who criticized us for going in to the tragic paradox of engaging in perpetual war in order to secure perpetual peace. His indictment, though harsh, deserves more than passing consideration.

On this day traditionally set aside to celebrate the establishment of peace, it is only proper, and indeed essential that we dedicate ourselves to finding a means of regaining and restoring that peace which we all so earnestly seek and desire.

Our attention, therefore, must inevitably focus on Vietnam and the task of finding a solution to our Asian dilemma. It is this formidable task that perplexes and divides our troubled nation today.

I have no pat solution to this great national problem, for my views of this conflict, like those of so many Americans, are ambivalent, and not precisely defined. Yet, after witnessing the effects of our involvement for the past five years and examining the reasons advanced to justify our commitment to that far-off land, I have developed some thoughts, some impressions, and especially some questions which I would like to share with you now.

Today is a day not only reserved to commemorate peace but also one to honor those veterans who dedicated their life or a portion of it towards defending or achieving peace. Our first duty today is to admire, respect, and commend those veterans of our current conflict for the heroism and valor, both individual and collective, which they have displayed. The war they have been called upon to wage is perhaps more difficult than any in which we ever been involved. It is a guerrilla war, one fought in an unhealthy climate and upon most difficult terrain. It is one where the enemy is not easily recognized, and one where friend or neutral is scarcely distinguishable from foe. It is a limited war, and one whose purposes and goals, never clearly defined, are steadily becoming more obscure. Finally, and of paramount importance, it is a war which lacks the undivided support of the American people. A sizable, articulate, vocal and sincere segment of our citizenry strongly oppose it. Never in American history, including the internally divisive war of 1812, has so much criticism and so little national backing been given to an American military effort.

Those conditions considered cumulatively indicate that our American fighting men in Vietnam, our veterans to be, are struggling under a greater handicap than any other American soldiers in our history. In the face of such adversity their courage, their dedication, and their spirit of sacrifice must be a source of awe and admiration for all our countrymen, as it certainly is for me.

This admiration or the efforts, and achievements of our fighting men, however, should not cause us to accept unthinkingly or passively the wisdom of the policy which placed those men in Vietnam. The validity of our position is and should be a debatable issue, for even an American citizen has the right to question the policy which has been set forth by those charged with the administration of our Government. To act with herd-like conformity would be to make a mockery of our vaunted liberty.

I have spoken of the sizable, articulate, vocal, *and sincere* segment of our people who strongly oppose what they term "our Vietnam nightmare." Their views deserve, indeed command, the respect and attention of our policymakers. These discontented Americans have not only the right but the duty to express their responsible dissent to a war which they feel has weakened their country at home and abroad.

Let me make emphatic and clear however, that my concept of *rational* dissent does not extend to such destructive protests against American involvement in Vietnam as rioting, sedition, or the desecration of our flag and the corresponding exaltation of the flags of our opponents. These remonstrances are not merely in poor taste, they are equivalent to moral treason, and therefore, intolerable.

It is most unfortunate that the actions of extremists have caused some Americans to take a dim view of any citizen who opposes our present course in Vietnam, for I feel that the rational dissenters have raised many formidable objections to a continuation of the conflict.

They have raised many valid doubts: they have posed many questions which demand a prompt and correct reply: they have challenged the wisdom of our system of priorities. Is the country of South Vietnam or for that matter, the entire Southeast Asian peninsula essential—not merely desirable, but is it essential to our national security? Can any settlement we reach with the government of North Vietnam be effectively sustained in the absence of sizeable American military force? Have the 40,000 American lives expended in the Vietnam conflict brought us any closer to peace in that troubled land? Is our continued Vietnam involvement generating international respect for the United States, or is it actually producing friction, suspicion and bad feelings between America and her allies and especially, between us and the many neutral or non-aligned nations of the world community? Can solutions to our grave internal problems be developed expeditiously in an atmosphere charged with dissention and controversy stemming principally from the conduct of a divisive foreign war? Is that war diverting our attention and dissipating our energy for coping with more urgent domestic crises? Does it, in fact, exaggerate and inflame those crises?

These are the questions which are foremost in my mind today. They demand an answer. And it is obvious from the manner in which I framed these vital issues that my answers point to the irresistable conclusion that our rapid, though not reckless, removal from Vietnam is essential. My conclusion is not authoritative, I can offer no timetable nor any precise formula, but after much deep introspection, I can offer my firm conviction that our present policies must be drastically modified in the direction of disengagement. To this end, let us not conceal our mistake. If indeed we have made one, by invoking the cry of national honor—for honor without righteousness is not only hollow but dangerous.

In conclusion, may I suggest that not only celebration but also meditation should mark this armistice day, because of the immensity of the problems confronting us. It is our duty as Americans to grapple with questions similar to those which I have modestly proposed. Then it is our collective duty to work to reestablish, this time with more enduring success, the peace which today we so wistfully commemorate.

Thank you.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Is there further morning business?

The ACTING PRESIDENT pro tempore. Under the previous order, morning business has not yet begun.

Is there morning business? If not, morning business is concluded.

TAX REFORM ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. H.R. 13270, the Tax Reform Act of 1969.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Oklahoma.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. WILLIAMS of Delaware. Mr. President, with the consent of the Senator from Oklahoma (Mr. BELLMON), I ask that his amendment be withdrawn. The Senator from Oklahoma is working on a technical change which I think may clear up the objection.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered on the amendment. The Chair advises the Senator from Delaware, who is not the author of the amendment, that it requires unanimous consent to withdraw the amendment.

Mr. WILLIAMS of Delaware. I have the consent of the Senator from Oklahoma, and I ask unanimous consent that the amendment offered by the Senator from Oklahoma (Mr. BELLMON) be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Delaware? The Chair hears none, and it is so ordered.

The bill is open to further amendment.

Mr. WILLIAMS of Delaware. Mr. President, for the information of the Senate, the Senator from Oklahoma (Mr. BELLMON) is working on a modification of his amendment. It will be offered at a later time.

Since there are no amendments pending, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MILITARY CONSTRUCTION APPROPRIATIONS, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily and that the Senate proceed to the consideration of calendar No. 558, H.R. 14751.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 14751) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

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 on Appropriations.

Mr. MANSFIELD. Mr. President, the ranking Republican member of the Military Construction Appropriations Subcommittee, the distinguished Senator from Delaware (Mr. BOGGS), is on his way over to the Chamber. The ranking Republican member of the full committee (Mr. YOUNG of North Dakota) is present.

Mr. YOUNG of North Dakota. Mr. President, I may say to the distinguished majority leader that I discussed it with the Senator, and it is satisfactory with him to proceed.

Mr. MANSFIELD. Mr. President, I present today for the consideration of the Senate, H.R. 14751, an act making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes.

It is not my intention in presenting the bill to give detailed figures concerning each line item. The line item breakdown and explanation are contained in the report which has been placed on each Senator's desk.

Before going into the recommendations of the Appropriations Committee, I would like briefly to summarize the pertinent facts pertaining to the bill.

The original budget as submitted last January requested new obligational authority of $2,558,450,000. The revised construction budget, as submitted in April, reduced the foregoing figure to $2,003,918,000. The reduction was accounted for mostly by the deletion of $600,000,000 in construction money for the Safeguard missile. The military construction authorization bill recently passed by the Congress approved funds in the amount of $1,626,926,000.

On November 13, 1969, the House passed H.R. 14751, with new obligational authority amounting to $1,537,177,000. The House construction bill was based upon the House-approved authorization and did not reflect the authorization act as passed by the Congress. Thus, it was the task of the Appropriations Committee to make numerous adjustments in H.R. 14751 to reflect the additions and the deletions of projects made in the authorization act.

The total of the military construction appropriation bill, as reported by the Senate Committee on Appropriations, is $1,690,064,000. This is an increase of $152,887,000 over the amount provided by the House. The total bill, as reported to the Senate, is $313,854,000 under the budget estimate of $2,300,918,000. By way of a general explanation, these figures reflect a general reduction in appropriations as follows: Army, 24.7 percent; Navy, 23.1 percent; Air Force, 22.2 percent; and Department of Defense agencies, 43.7 percent.

The Military Construction Subcommittee of the Senate Appropriations Committee held joint hearings again this year with the Military Construction Subcommittee of the Armed Services Committee chaired by the able Senator from Washington (Mr. JACKSON). These joint hearings were most productive in saving time of the Senators and witnesses of the Department of Defense. Additional hearings by the Senate Appropriations Subcommittee were held to hear testimony on appeal items in the bill and projects which had been authorized in previous years.

Before going into the construction appropriations for each of the services and the Department of Defense, I will mention a number of committee actions taken on large construction items. The largest single reduction made by the House was $82.5 million due to so-called unobligated balances remaining from previous years. The committee felt that this reduction was too large in view of the unobligated construction balances that remained as of October 1, 1969; thus, the committee restored to the bill $51 million of the House reduction. The request this year by the Department of Defense to finance the North Atlantic Treaty Organization infrastructure program amounted to $34 million in new obligational authority. This amount represents a 29-percent contribution by the United States to the NATO construction program. The full amount was allowed. The largest single item in the bill was $688,476,000 for family housing. A breakdown of this account will be discussed later in my presentation.

I am sure that the Senators are very interested in how much money is in this bill for the Safeguard missile. Actually, there is $14,100,000 which includes $1,400,000 for planning. The remainder will be used to construct research and development facilities on the Kwajalein Island. The funds to start construction on the new sites at Malmstrom Air Force Base and Grand Forks Air Force Base, N. Dak., will be implemented with funds appropriated in prior years.

There are no funds in this bill for construction in South Vietnam. As of August 31, 1969, there remained available prior year funds for construction of approximately $214 million. The Department of Defense declares that these funds will provide for the military services requirements through fiscal year 1970.

The committee approved $25 million for the emergency fund administered by the Secretary of Defense. The House had reduced this fund by $10 million. In restoring the funds, the committee felt that the Secretary must have a construction fund from which to withdraw required amounts in unforeseen emergencies. Past experience has proven that the Secretary of Defense has administered this fund in a most prudent manner.

Other large items approved were: $16,814,000 for a cadet activities building at the U.S. Military Academy, West Point, N.Y. This structure has been needed for a long time and indications are that with the increase of the cadet corps to 4,400 students, the Academy cannot wait until future years for the construction of this building. Also $9,891,000 was approved for an administration and classroom building at Brooke Army Medical Center, Tex. This structure is urgently needed now to relieve an intolerable condition of overcrowding and to overcome maintenance problems on World War II structures that are now being used.

Under the Navy appropriations, the committee deferred a hospital at Camp Pendleton, Calif. It was not with prejudice that this project was deleted. The planning on this hospital is only about 60 percent complete and information furnished to the committee indicated that the cost could go as high as $25 million. It was the consensus of the committee that the Navy should come in with this project next year with firm estimates as to its ultimate cost.

Additions were made for a number of projects that were required because of hurricane damage at Gulfport, Miss. Also added were urgent operational projects for safety reasons and four other projects that were requested because of destruction by fire.

ARMY

The committee approved an appropriation of $297,597,000 for construction within the Army, exclusive of family housing. This is an increase of $57,151,000 from the amount of $240,446,000 approved by the House and a decrease of $98,003,000 from the budget estimate of $395,600,000. The foregoing amount will provide for troop housing and community facilities, research and development facilities, and hospitals.

NAVY

For military construction for the Department of the Navy, the committee has approved an amount totaling $305,377,000. This is an increase of $33,772,000 from the $271,605,000 allowed by the House and a decrease of $91,823,000 from the budget estimate of $397,200,000. The amount appropriated for the Navy will provide for the modernization of naval shipyards, naval air facilities, pollution abatement facilities and recruit training facilities at Orlando, Fla. Of course, included in the Navy totals are facilities for the Marine Corps ground and aviation facilities.

AIR FORCE

The committee has approved for the Department of the Air Force $302,349,000. This is an increase of $48,844,000 over the $253,505,000 allowed by the House and a decrease of $86,751,000 from the budget estimate of $339,100,000. The money recommended for the Air Force will allow for new projects in operational training, maintenance and supply categories. Also approved were personnel support facilities which encompass medical facilities and all types of related construction. Also there are a number of projects which will enhance the Air Force's research and development capability.

RESERVE FORCES

The committee approved the following amounts for the Reserve forces which

were the same as the budget estimates and the amounts allowed by the House: Army National Guard, $15 million; Army Reserve, $10 million; Naval Reserve, $9,600,000; Air Force Reserve, $5,300,000, and Air National Guard, $13,200,00.

DEPARTMENT OF DEFENSE AGENCIES

The committee recommends an appropriation of $43,165,000 for the Department of Defense Agencies. This is $31,335,000 under the budget estimate of $74,500,000 and $14,445,000 over the amount allowed by the House. The large part of this appropriation is the $25 million allowed for the Secretary of Defense's contingency fund.

FAMILY HOUSING

The committee has recommended $688,476,000 in new appropriations for the 1970 military family housing program. Within this total is $124,791,000 for the family housing construction program. The approved appropriation will provide for the construction of 4,800 units of family housing and the relocation of 444 units of old housing. The remaining part of the above-stated total amount for family housing consists of debt payments of mortgage principles on Capehart and Wherry housing indebtedness, reconditioning of family quarters in need of repair, leasing of housing for military personnel and maintenance and operation of military housing throughout the United States and overseas.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the comparative statement of appropriations for fiscal year 1969 and the extension of the amounts contained in the bill for fiscal year 1970.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1970

Item	New budget (obligational) authority, fiscal year 1969	Budget estimates of new (obligational) authority, fiscal year 1970	New budget (obligational) authority recommended in the House bill	Amount recommended by Senate committee	Senate committee bill compared with— New budget (obligational) authority, fiscal year 1969	Budget estimates of new (obligational) authority, fiscal year 1970	House allowance
Appropriations:							
Military construction, Army	$548,126,000	$395,600,000	$240,446,000	$297,597,000	−$250,529,000	−$98,003,000	+$57,151,000
Military construction, Navy	291,513,000	397,200,000	271,605,000	305,377,000	+13,864,000	−91,823,000	+33,772,000
Military construction, Air Force	222,141,000	389,100,000	253,505,000	302,349,000	+80,208,000	−86,751,000	+48,844,000
Military construction, defense agencies	83,396,000	74,500,000	28,720,000	43,165,000	−40,231,000	−31,335,000	+14,445,000
Transfer, not to exceed	(20,000,000)	(20,000,000)	(20,000,000)	(20,000,000)			
Military construction, Army National Guard	2,700,000	15,000,000	15,000,000	15,000,000	+12,300,000		
Military construction, Air National Guard	8,300,000	13,200,000	13,200,000	13,200,000	+4,900,000		
Military construction, Army Reserve	3,000,000	10,000,000	10,000,000	10,000,000	+7,000,000		
Military construction, Naval Reserve	5,000,000	9,600,000	9,600,000	9,600,000	+4,600,000		
Military construction, Air Force Reserve	4,300,000	5,300,000	5,300,000	5,300,000	+1,000,000		
Family housing, defense	583,700,000	694,418,000	689,801,000	688,476,000	+104,776,000	−5,942,000	−1,325,000
Homeowner assistance fund, defense	6,200,000				−6,200,000		
Total appropriation amounts	1,758,376,000	2,003,918,000	1,537,177,000	1,690,064,000	−68,312,000	−313,854,000	+152,887,000
Portion applied to debt reduction	−82,898,000	−86,618,000	−86,618,000	−86,618,000	−3,720,000		
Grand total, new budget (obligational) authority	1,675,478,000	1,917,300,000	1,450,559,000	1,603,446,000	−72,032,000	−313,854,000	+152,887,000

Mr. MANSFIELD. Mr. President, this concludes my summary of the military construction bill. I will be glad to answer any questions concerning the committee action and to explain any additions or deletions of projects which may have been made.

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

Mr. MANSFIELD. I yield.

Mr. BOGGS. Mr. President, the military construction appropriations bill now before this body represents, I believe, an accomplishment in economy—but one which will meet the immediate construction needs of the armed services.

The bill would appropriate $1,603,466,000 in new construction money in fiscal year 1970 for the three services, for family housing, and for the Defense agencies.

The bill represents a decrease of $72,032,000 from the total appropriated for fiscal year 1969, and it is $313,854,000 less than the budget estimates sent to the Congress.

I would like to point out that more than 40 percent of the money appropriated by this bill—or $688,476,000—is intended to be spent on family housing. It will provide 4,800 new units, relocation of 444 units, and maintenance for 364,480 units.

It contains no money for construction in South Vietnam. The Defense Department requested none.

The bill contains $14.1 million for development of the Safeguard antiballistic missile, of which $12.7 million will go for research and development at Kwajalein Island and $1.4 million for planning.

Mr. President, I would like to commend the Senator from Montana (Mr. MANSFIELD) and the Senator from Nevada (Mr. BIBLE) for their fine leadership in developing the bill, and the Senator from Kansas (Mr. PEARSON), the Senator from Hawaii (Mr. FONG), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Texas (Mr. YARBOROUGH) for their participation. Mr. Vorley M. Rexroad and Mr. Edmund L. Hartung contributed fine staff work. In addition, the members and staff of the Armed Service Committee were most cooperative and helpful during our joint hearings on this bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill as thus amended be regarded as original text for purposes of amendment, provided that no point of order shall be considered to have been waived by reason thereof.

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

The amendments agreed to en bloc are as follows:

On page 2, line 7, after the word "Code," strike out "$240,446,000" and insert "297,597,000".

On page 2, line 17, after the word "appropriation," strike out "$271,605,000" and insert "$305,377,000".

On page 3, line 1, after the word "Code," strike out "$253,505,000" and insert "$302,349,000".

On page 3, line 10, after the word "Code," strike out "$28,720,000" and insert "$43,165,000".

On page 5, line 12, after the word "law," strike out "$689,801,000" and insert "$688,476,000".

On page 5, line 17, after the word "Construction," strike out "$31,061,000" and insert "$30,461,000".

On page 5, line 25, after the word "Construction," strike out "$42,714,000" and insert "$41,989,000".

SENATOR GOODELL QUESTIONS FUNDS FOR BIOLOGICAL BUILDING AT DUGWAY

Mr. GOODELL. Mr. President, among certain funds for Army Materiel Command, listed on page 11 of the committee report, is one item in this military construction appropriations bill which causes me particular concern.

The item is a "sampler processing building" to be constructed at the Dugway Proving Ground in Utah.

Dugway, it will be recalled, is a major testing ground for chemical and biological warfare—CBW.

The cost of this new building, viewed as part of a $1.6 billion military construction appropriation, is relatively small and almost escapes notice.

Perhaps it is an oversight that funds are still being allocated for this "sampler processing building." If not, I would like to know why we are expanding facilities for germ sampler containers at Dugway.

Is germ field testing at Dugway to continue? I would hope not. I think we should know that the Pentagon has justified this new building in terms of germ field testing in the winter.

In view of President Nixon's CBW policy statement on November 25, we should be cutting down on construction at Dugway; not expanding.

It was in October that the Pentagon testified in Senate joint hearings on this new expenditure for Dugway. According to the Pentagon:

DUGWAY PROVING GROUND, UTAH

This sampler processing building will provide a facility for loading, unloading, de-

contaminating, and servicing 1,400 heated biological sampler containers used in the installations field test program. At present, animal holding rooms must be used to process these containers. These rooms are needed for holding infected animals and animals for various studies. Processing sampler containers in these rooms reduces the space available for holding these animals by one-half. When short notice urgent test requirements are received, other ongoing projects and normal operations must be disrupted. In addition, crowded conditions among the animals risks cross-infection, sample quality, and personnel safety. Safety of employees and the animals points up the need for the best possible test facilities.

First, I would like to call attention to the Pentagon's reference to Dugway's "field test program" with germ agents.

On many occasions, I have expressed my opposition to outdoor testing of germ agents as well as chemical agents. It is my firm conviction that public health safety as well as a clean and healthy environment require a flat ban on such outdoor testing.

It appears from the Pentagon's October testimony that the need for this new building at Dugway was based on plans for expanding biological weapons development.

The "sampler processing building" is for heated biological sampler containers. I understand that these sampler containers are used in outdoor winter testing for the purpose of developing weapons. Processing the sampler containers is basically to detect distribution and survivability of germs after munitions explosions.

On November 25, President Nixon made a historic announcement on chemical and biological weaponry. He renounced first-use of these weapons in war. He called for an about-face in the Pentagon's germ research. No longer is the Pentagon to develop germ weapons. Rather, germ weapons are to be dismantled. All future biological research is to be confined to defensive measures such as immunization and safety devices.

Mr. President, Dugway Proving Ground is a site for weapons testing. Are we to assume that its biological facilities are now to be converted to immunization research?

If not, is Dugway gearing up for work on some safety device which would require this particular "sampler processing building?"

Regarding safety devices, we are aware that the Penatgon has in the past worked on what might be called an antibiological weapons monitoring system—BWMS. Beyond the question of whether such a monitoring system could work, I wonder now whether it is really necessary.

Again, I come back to the questions: Is outdoor testing of germs agents to continue at Dugway? What would be the purpose of future field test missions? Do we really need this "sampler procession building?" Can we not reasonably hope that germ facilities at this weapons testing site are no longer needed?

It should be noted that immunization research, to which President Nixon referred, is presently being conducted at Fort Detrick in Maryland and the Communicable Disease Center in Atlanta, Ga., as well as in numerous hospitals and medical schools across the Nation.

In view of President Nixon's new policy directive for the Pentagon's biological program, it would seem that construction of a new biological building at Dugway is not needed and the cost of this building can be saved.

Mr. President, this is a time of inflation. It is a time of heavy Government spending. It is a time when taxes weigh heavily on those who can bear taxes least.

Equitable and sound tax reform can ease the tax burden.

Incisive review of Government spending requests can lead to cuts in wasteful expenditures mounting to billions of dollars.

The Senate has shown its determination to stop unnecessary spending.

Even before President Nixon's CBW policy statement, Members of Congress were closely examining Pentagon requests for the chemical and biological weapons program.

In the military procurement bill, $16 million was cut from money requested for research on deadly gas and germ weapons.

In the military construction bill, the Committee on Armed Services and the Committee on Appropriations in both the Senate and House took the initiative to cut approximately $5 million from Pentagon requests for new facilities and equipment for germ warfare.

These cuts are welcome and the committee members are to be commended for their careful scrutiny of budget requests.

Still, if more trimming can be done, we should do it.

We must not spare the "meat-ax" or the "scalpel" in cutting out waste.

On the "sampler processing building" for Dugway, the scalpel can be put to good use. If the item is not needed now due to President Nixon's action; if new justification by the Pentagon is untenable, then funds should be deleted.

Mr. YARBOROUGH. Mr. President, as a member of the Military Construction Appropriations Subcommittee, I wish to commend our able chairman, the distinguished majority leader, for his hard work and leadership in producing this important bill. The bill that is before the Senate today is a balanced and reasonable measure and provides the necessary funds for the construction of facilities that are vital to our military personnel.

The Senate version of this bill includes over 50 percent more for Texas projects than was in the bill which passed the House of Representatives. The victory in the Senate means a great deal for Texas. As a member of the Military Construction Appropriations Subcommittee of the Senate, I was able to work for this substantial increase for Texas. We were able to hold this increase in the full Senate Appropriations Committee and today we won a major victory when the Senate agreed to the $75 million for Texas.

The Senate bill includes many projects which were not in the House bill, but I am most pleased on the appropriation of $9,891,000 for the Medical Field Service School at Brooke Army Medical Center in San Antonio which was not in the House bill. This school trains the medical personnel who have done such an outstanding job of saving lives of wounded Americans in Vietnam. It is essential that this lifesaving Medical Field Service School have the very best training facilities.

The total for Texas in the Senate bill is $75,184,000. The bill which passed the House of Representatives had only $47,630,000 for military construction in Texas. The Senate bill is an important improvement over the House bill in that it recognizes the vital needs of many of our military installations by providing housing and other facilities.

The following indicates the amounts appropriated for the military installations in Texas. These figures are the ones in the Senate bill and include the sums added to the House passed bill:

Army:	
Aeronautical Maintenance Center	$1,178,000
Fort Bliss	4,309,000
Brooke Army Medical Center	9,891,000
Fort Hood	21,050,000
Fort Sam Houston	524,000
Red River Army Depot	1,396,000
Subtotal	38,348,000
Navy:	
NAS Chase Field	2,769,000
NAS Corpus Christi	496,000
NAS Kingsville	3,876,000
Subtotal	7,141,000
Air Force:	
Bergstrom AFB, Austin	415,000
Brooks AFB, San Antonio	736,000
Carswell AFB, Fort Worth	236,000
Ellington AFB, Houston	954,000
Goodfellow AFB, San Angelo	957,000
Kelly AFB, San Antonio	5,347,000
Lackland AFB, San Antonio	12,414,000
Laredo AFB, Laredo	496,000
Laughlin AFB, Del Rio	1,771,000
Randolph AFB, San Antonio	1,151,000
Reese AFB, Lubbock	954,000
Sheppard AFB, Wichita Falls	3,829,000
Webb, AFB, Big Springs	435,000
Subtotal	29,095,000
Total	75,184,000

Mr. President, I commend all the members of the Military Construction Subcommittee of both parties and their able staffs for the excellent work on this bill. I urge all of my colleagues in the Senate to join with me in full support of this bill.

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 of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill be read a third time.

The bill (H.R. 14751) was read the third time.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill 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 bill clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr.

BYRD), the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. ELLENDER), and the Senator from Alabama (Mr. ALLEN) are absent on official business.

I further announce that, if present and voting, the Senator from Alabama (Mr. ALLEN), the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Virginia (Mr. BYRD), the Senator from West Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. ELLENDER), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Minnesota (Mr. MONDALE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of Illness.

The Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The Senator from Florida (Mr. GURNEY) and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), and the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 82, nays 0, as follows:

[No. 188 Leg.]

YEAS—82

Aiken	Griffin	Muskie
Allott	Hansen	Nelson
Baker	Harris	Packwood
Bellmon	Hart	Pastore
Bennett	Hartke	Pearson
Bible	Hatfield	Pell
Boggs	Holland	Percy
Brooke	Hollings	Prouty
Burdick	Hruska	Proxmire
Case	Hughes	Randolph
Church	Inouye	Russell
Cook	Jackson	Saxbe
Cooper	Jayits	Scott
Cotton	Jordan, N.C.	Smith, Maine
Cranston	Jordan, Idaho	Sparkman
Curtis	Long	Spong
Dodd	Magnuson	Stennis
Dole	Mansfield	Talmadge
Dominick	Mathias	Thurmond
Eagleton	McClellan	Tower
Eastland	McGee	Tydings
Ervin	McGovern	Williams, N.J.
Fannin	McIntyre	Williams, Del.
Fong	Metcalf	Yarborough
Fulbright	Miller	Young, N. Dak.
Goodell	Montoya	Young, Ohio
Gore	Moss	
Gravel	Murphy	

NAYS—0

NOT VOTING—18

Allen	Ellender	Mundt
Anderson	Goldwater	Ribicoff
Bayh	Gurney	Schweiker
Byrd, Va.	Kennedy	Smith, Ill.
Byrd, W. Va.	McCarthy	Stevens
Cannon	Mondale	Symington

So the bill (H.R. 14751) was passed.

Mr. BOGGS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MANSFIELD, Mr. BIBLE, Mr. PROXMIRE, Mr. YARBOROUGH, Mr. RUSSELL, Mr. SYMINGTON, Mr. BOGGS, Mr. PEARSON, Mr. FONG, Mr. YOUNG of North Dakota, and Mr. GOLDWATER conferees on the part of the Senate.

Mr. BYRD of West Virginia subsequently said: Mr. President, on behalf of the Senator from Montana (Mr. MANSFIELD) I ask unanimous consent that the Senator from Arizona (Mr. GOLDWATER) be excused from service as a conferee on H.R. 14751, the military construction appropriations measure.

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

TAX REFORM ACT OF 1969

The Senate resumed the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I call up my amendment 319.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. On page 370, beginning on line 23, strike out all through line 7, page 377 (section 515, committee amendment).

Mr. INOUYE. Mr. President, I ask unanimous consent that the names of the Senator from Oregon (Mr. PACKWOOD) and the Senator from South Carolina (Mr. HOLLINGS) be added as cosponsors of my amendment.

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

Mr. INOUYE. Today I wish to speak in behalf of my amendment to H.R. 13270 which would delete section 515 of the Senate Finance Committee version of the Tax Reform Act. Section 515 relates to profit-sharing plans.

Section 515 of the Senate bill would have the following effects: First, distributions to employees would be taxed at ordinary income rates upon distribution in an amount equal to employer contributions after 1969; second, employers' contributions after 1969 toward the purchase of the employers' securities would be taxed at ordinary income rates upon distribution to the employee in an amount equal to the cost basis of contributions; and third, it establishes a special 5-year "forward" averaging method for the ordinary income part of a lump sum distribution. I believe that these provisions would destroy valuable incentives upon which our business firms and their employees rely, and I urge that the Senate strike out this entire section of the bill.

Upon present law, an employer who establishes a qualified employee pension, profit-sharing, stock bonus, or annuity plan is permitted to deduct his contributions to the trust, moreover, income earned by the trust is exempt from tax if the employee trust is exempt. Upon retirement the employee who receives annual benefit payments is taxed at ordinary income rates. The exception to this rule is the payment of the benefits in a lump sum distribution from the plan, in which case the payment is taxed as a long-term capital gain. I am particularly concerned that this highly successful feature of profit-sharing plans will be adversely affected by the changes proposed in section 515.

The Committee on Finance decided during its deliberations to deny such favorable capital gains treatment to lump sum distributions on the grounds that they are in reality deferred compensation at more favorable tax rates than other compensation received for simliar services. It was noted in the committee report that taxpayers with adjusted gross incomes in excess of $50,000 gain more and that there have been a number of distributions of over $800,000.

It cannot be denied that there probably are individuals who receive large distributions at favorable rates. However, it must be noted that tax exempt profit-sharing plans are not inequitable. All profits are distributed on a nondiscriminatory basis, from janitor to president, because of the regulations which govern qualification as a tax exempt profit-sharing plan. Furthermore, a survey made in 1968 showed that 90 percent of the lump sum distributions made involved distributions of less than $30,000 and that almost 70 percent feel in the range of from $500 to $10,000. Far from being a device for the rich, lump sum distributions affect millions of members in all income groups.

Since 1942, when the provision giving long-term capital gains treatment to lump sum distributions was added to the Code, over 80,000 companies have adopted deferred tax-qualified profit-sharing programs, covering over 5 million employees. More than 10,000 of these plans were established in 1968 alone. Clearly profit-sharing plans are popular with both employers and employees, and their continued growth is a clear affirmation of their success.

It has been alleged that distributions are actually deferred compensation and ought to be treated as ordinary income. However, this is not usually the case. Most corporations consider profit sharing as additional incentive and make their distributions in addition to ordinary compensation and benefits. Article II, section 1 of the constitution and bylaws of the council of profit-sharing industries makes it clear that its concept of profit sharing is a procedure for payment in addition to prevailing rates of pay.

Lump sum distributions from qualify-

ing profit-sharing plans are further distinguished from simple deferred compensation, or ordinary income, by the fact that it is risk capital. After the employer makes his contribution, it is the employee alone who is affected by changes in the investment of the contribution. Thus any number of factors, including inflation and bad stock or bond markets, could severely reduce the amount an employee would ultimately receive. Since the individual employee has no direct control over the investment of the funds, it would be erroneous to call it deferred compensation. Rather, the contributions have been invested in a manner that would ordinarily yield capital gains treatment.

Furthermore, the proposed change is defective because the distributions represent "bunched income" which has accumulated over a period of years, perhaps an entire working lifetime. The committee's answer is a complex amendment permitting averaging the gross "ordinary income" less the amount received during the year as compensation and less the capital gains after one has passed the age of 59½ in the year of distribution. This method still ignores the fact that averaging could push an elderly employee into a tax bracket higher than the level at which the contributions were originally made.

I have been advised there are over 40 steps involved in determining what the tax will be.

Apart from the claims of equity, there is another compelling reason why we should not tamper with the tax treatment of profit-sharing plans. Three decades ago a subcommittee of the Committee on Finance found that profit sharing contributes to harmonious labor-management relations and to labor peace and contentment. This astute observation is no less true today. Profit sharing enables employees to share in the fruits of the corporations for which they work. Where equity participation is not possible because the business is a partnership or close corporation profit sharing gives employees a valuable and substantive stake in the soundness of the business. Through profit sharing an employee is afforded an opportunity to share in the benefits of ownership and to accumulate funds for his retirement or his beneficiaries. It is, I believe, an intelligent response of the free enterprise system to demand for participation in the profits of one's business.

I fear that any change in the status of employer contributions may retard the further growth of plans. Taxation of lump sum distributions at ordinary rates may diminish the attractiveness of these plans and discourage further participation in them. I believe that profit sharing is a valuable financial incentive that must be preserved. I urge my colleagues who share my interest in the continued viability of profit-sharing plans to join me in this amendment to strike out section 515 of the tax reform bill.

Mr. President, in closing, I wish to briefly discuss the revenue effects of the proposed change. At the outset, it is estimated that the revised method of taxation would produce less than $2.5 million of additional revenue in the year 1970, and in 1971 it is estimated that $5 million of additional revenue would be produced; and by 1979 it is estimated $50 million of additional revenue would be produced.

While this is intended to be a tax reform bill practical considerations which may outweigh the modest revenue recoupment, under lump sum distribution, cannot be ignored because increased burdens which would be cast on the tax collecting agency must be balanced against any estimated revenue gains which might result from the changed method of taxation. I really believe the increased administrative costs might eliminate all the revenue gained and lead to a net revenue loss.

The committee, in estimating these additional revenues, naturally assumed that all of the profit sharing plans in effect today would continue in effect. I am convinced, with this amendment, it would serve as a damper to these plans and discourage not only further development of plans but close up present plans.

In view of the great care otherwise exercised to see that revenue cutting portions of the bill are matched by revenue increases, this possibility should not be ignored.

Therefore, once again I urge my colleagues who share my interest in the continued liability of profit-sharing plans to join me in this amendment to strike section 515 of the tax reform bill.

CONCERN OF YOUTH ABOUT ENVIRONMENTAL CONTROL

Mr. PACKWOOD. Mr. President, there is no more critical problem facing our Nation today than that of the pollution of our entire environment. In recent months, we have seen a great surge of interest and concern by the youth of America to reverse the current situation. I was greatly encouraged to see from my mail of late that this concern extends down to the elementary school level. What better weapon do we have in meeting this problem than the education and concern of our young people?

I have received some really delightful letters from the fourth grade students of Bend, Oreg.

What an encouraging sign. Without further comment, I should like to introduce these young "concerned Americans" to all Senators by letting them read their letters to me, and ask unanimous consent to have them printed in the RECORD for that purpose.

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

BEAR CREEK SCHOOL,
Bend, Oreg., November 25, 1969.

DEAR SENATOR PACKWOOD: We have been studying our State and *national pollution problems*. Our class decided that they would like to express their feelings to their government representatives. Enclosed you will find some of their letters. Please address any replies to the above address so that we can share the letter or letters with each other.

Sincerely,

MRS. GRAHAM.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: We are studying on pollution and some of the places I went were polluted. We went past a hill that had cans, beer bottles, paper, plastic paper, sticks. We want clean water, land, air. We should not have no deposit bottles or cans. Because everybody just throws them on the street and leaves them there.

Sincerely,

CINDY WELANDER.

BEND, OREG.,
November 24, 1969.

DEAR SENATOR PACKWOOD: I don't like the pollution that is going on, and I'm sure you don't like it either. I wish we could outlaw cans then we could have returnable jars and bottles. That would stop land pollution a lot. What I don't get is that how can we stop air pollution. Can you stop pollution? I'm trying.

Sincerely,

DONALD IPOCK.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: I think that there should be a law that there should not be any no return no deposit bottles or cans. There is too much pollution these days. It is a disgrace. If you can help us please do.

Sincerely,

DAVID COCHRANE.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: People just don't listen when we tell them not to litter because they are destroying America. I just think they're too lazy to even get up and throw it in the garbage. I think we should make 5 cents on the bottles and cans then instead of throwing them on the ground. We could take them to the store and get 5 cents out of them. I don't think we should put our sewage in the lakes and rivers, because we have a lot with not having to start more. The air is so bad that some day we won't be able to see the sun because of the air pollution. Instead of burning our garbage we can bury it. Well I just hope you stop all of this and make America beautiful. And another thing people cause air pollution by smoking. Cigarettes are hazardous. America is getting ruined slowly.

Sincerely,

TOBI RAMSEY.

BEND OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: We have been studying about pollution and we would like to have it stopped. It is not good for your health. It does not keep America green and pretty like it should be. Every time I see anyone throw trash out the window or anything I pick it up and put it in the trash can. We want to have clean air, too.

Sincerely,

DEANNA STEVENS.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: We have been studying on pollution in school. We want to know if you could help us keep Oregon beautiful. We want you to help make no deposit, no return bottles into return bottles. After people drink out of these bottles they throw them on the ground. It is getting so bad that it is looking terrible. I hope you can help.

Sincerely,

MARY MILLER.

BEND, OREG.,
November 24, 1969.

DEAR SENATOR PACKWOOD: Can you stop pollution? We go camping every weekend. There is paper, cans, beer bottles, other things around. They should clean it up, but they don't. Do something about it. We want it to stop.

Help stop pollution please.

Sincerely,

BILLY WAYNE CONLEY.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: I hope you can do something about all this unnecessary wasting of clean air, water, and land. It can kill people and wildlife, and it will.

There is water pollution in Lake Erie. It used to be a favorite fishing ground. Now it's a water filled garbage dump! I don't want this happening to Oregon and the other States of the United States of America.

Nobody and nothing can survive without air. The air is fit to breathe if we keep it that way. In this last century the earth's atmosphere has risen ½°. If it rises to 4° warmer then the polar ice caps would melt and flood all the coastal cities.

If you have any literature on air, water, and land will you please send it to me and I'll take it to PURE meetings. There is a lot of rivers and lakes in Oregon and they're fun to fish in, go swimming, water skiing, and just plain old fun. Let's keep it that way please.

Sincerely,

JERRY JOB.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: Have you been thinking about litter? Well I have. Can you help it? I wish I could. Don't you think you can? I think that you shouldn't put sewer in the Deschutes River. I like that. I hope you can help it. I am a fourth grader. I would help stop pollution too! I'm helping all I can. Pollution is getting bad.

Sincerely yours,

CARLA WILKINS.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: We have been studying pollution. I want you to outlaw no deposit no return bottles and cans. The people who buy beer, pop, and other things in bottles and cans will not throw their cans and bottles away, if they know they are returnable for about five cents. People who throw away these cans and bottles should get fined and thrown in jail. But if anybody throws away cans and bottles the cans and bottles will not be there very long. If a little kid sees them and wants some money he will pick up every last can and bottle he can see.

Yours truly,

JON LEAGFELD.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: Do you know what our states are coming to? It is just pollution now. It would help if you outlaw beer cans and pop cans because when people are finished with them they throw them down. If you could put it in bottles with a 5¢ deposit. That will help land pollution a little. Now it is a problem to stop water pollution and air pollution.

Sincerely yours,

CAROL COULTER.

BEND, OREG.,
November 25, 1969.

DEAR SENATOR PACKWOOD: It is our duty in Bend to not throw trash out. It would be a help if they would outlaw cans and have all bottles returnable with five cent charge. I think that would help a great deal about the litter problem. There should be a law about mill and construction companies putting there wastes in rivers and streams and lakes. The mills should have a pond to put their logs in and why should the construction companies dump dirt in the water. If we don't stop the air pollution it will melt the polar ice caps and the coastal cities will drown by water.

Sincerely,

BRIAN MOODY.

BEND, OREG.
November 25, 1969.

DEAR SENATOR PACKWOOD: I am a fourth grade girl. I would like to help stop pollution. We are making posters for pollution. We would like you to vote to help stop pollution. I think we should not let people put sewage in the Deschutes River and all the rivers of Bend. If you could stop people from selling smokes it would stop some of the air pollution.

Please help us.

Thank you.

Sincerely,

MARETTA LOUISE SEUELL.

BEND, OREG.
November 24, 1969.

DEAR SENATOR PACKWOOD: I would like to know why kids can't vote on litter? Why won't there be cars and airplanes go by electric to stop pollution? And have no deposit cans and deposit bottles.

Sincerely,

KIMBRELL CUMMINS.

BEND, OREG.
November 24, 1969.

DEAR SENATOR PACKWOOD: Would you please make no deposit no return bottles. Because this town is going to be pretty polluted. The teen-agers and the parents are the ones who make this town polluted. Not us little kids. Water is the hardest to keep clean. Because when somebody cleans up the ditches in this town, people put it back in it. Land is hard to keep clean too. And so is air.

Sincerely,

BRIAUNA MICHELLE HOLLY.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations this day received, see the end of Senate proceedings.)

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President the Treasury strongly supports section 515 of the Tax Reform Act as reported by the Senate Finance Committee. This provision would deny capital gains treatment—on a prospective basis only—for the portion of a lump-sum distribution from a qualified pension or profit-sharing plan to the extent it consists of contributions by the employer. To prevent distortion in tax liability which might result from including several years income in the gross income of 1 taxable year, this provision contains a special averaging provision.

The Treasury believes that employer contributions to a pension or profit-sharing plan should be treated as ordinary income. Such amounts are compensation for services rendered. They do not cease to be compensation and are accumulated in a tax-exempt trust for the benefit of the employees.

There have been statements circulating recently to the effect that this provision will result in a tax increase for recipients of relatively small distributions and a tax decrease for recipients of large distributions. These statements are incorrect. In fact, most recipients of relatively small distributions, that is, $20,000 or less—would have a smaller tax liability than they now have with capital gains treatment because of the favorable averaging rule provided. High paid corporate executives will generally have a greater tax liability. This demonstrates that capital gain treaments is inappropriate as an averaging device in that it has uneven effects depending upon income size. A 5-year average as proposed in the bill provides the same type of averaging benefit to all taxpayers, regardless of income size.

The Treasury believes that existing law provides an unwise incentive for employees to elect lump-sum distributions from pension and profit-sharing plans to obtain capital gains treatment; aside from this tax benefit it would normally be in their best interest to receive periodic distributions. Section 515 of the bill will tend to remove this unwise incentive. This will strengthen the effectiveness of the private pension system in providing for the continuing needs of employees after retirement.

Mr. President, there is $55 million involved in the pending amendment and, if agreed to, it would mean one more step backward from the so-called tax reform which has been approved by the committee and strongly endorsed by the Treasury Department.

To summarize, I point to existing law, where the employer's contribution to the private pension plans, plus all appreciation thereon, as a result of the investment, is and can be accepted as a lump-sum payment and receive favorable capital gains treatment. Under the committee bill, we would provide that the employer's contribution would be subject to regular, normal income tax, but that the capital gains treatment would apply only to the appreciation in the investment of the contributions. I certainly think that this is one loophole we should close. By all *means*, I hope that the amendment will be rejected.

I say again that there is $55 million involved. If we keep whittling away here, there will soon be nothing left.

Mr. MILLER. Mr. President, will the Senator from Delaware yield?

Mr. WILLIAMS of Delaware. I yield.

Mr. MILLER. Is it not true that the way the committee handled this item was to make it prospective and operational?

Mr. WILLIAMS of Delaware. That is correct.

Mr. MILLER. So that those who will

retire, let us say, next January or February, would find no change whatever insofar as their lump sum payment is concerned and as to how the tax law would handle it over what is now the case.

Mr. WILLIAMS of Delaware. The Senator is correct. This is completely prospective only, but it is a correction long overdue in the Revenue Code.

Mr. MILLER. Is it not true that especially in a case of the employee with a farily long term of service, the great bulk of the lump sum payment is attributable to the accumulation in a tax-free trust rather than to payments made by an employer as a contribution to the trust in previous years?

Mr. WILLIAMS of Delaware. That is correct.

Mr. MILLER. Is it not true that the committee's action leaves the capital gains at least on the great bulk of the payout alone?

Mr. WILLIAMS of Delaware. Yes. That should be subject to capital gain because it is capital appreciation the same as it would be if it was a private investment. But on the other hand, the employer's contribution to the pension fund is a part of the income of the individual and even though it is deferred income it should be taxed at regular rates. The committee bill also provides an averaging provision so it does not hit him in the high bracket all in 1 year.

Mr. MILLER. In the case of the situation where the employee has made a contribution down through the years, as well as the employer, that portion of the lump-sum payment which is attributable to the employee's own contribution is merely a return of income which he has previously paid taxes on and is not taxed at all under the committee bill.

Mr. WILLIAMS of Delaware. That is true. It is not taxed either under existing law or in the Finance Committee bill.

Mr. MILLER. I thank the Senator from Delaware.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

Mr. LONG. Mr. President, I personally voted to support the position taken by the distinguished Senator from Hawaii (Mr. INOUYE) in committee. I would have felt constrained to stay with the committee position except for the fact that members of the committee have been voting on the merits of these matters as they felt about the matter in the committee. I believe this does involve a Sears & Roebuck retirement plan, does it not, I ask the Senator?

Mr. INOUYE. The Senator is correct.

Mr. LONG. Many people who have such retirement plans working in States to the north, east, and west of us are planning and hoping, when they earn their retirement, to take a lump sum settlement, pay a capital gains on it and then move to warmer climates, such as Florida, or perhaps Louisiana, or California, or Hawaii—where climates are not so harsh on elderly people and they may live out their remaining years in modest comfort.

To tax this settlement as ordinary income does impose a considerable burden upon them, without involving a great deal of tax revenue, and it causes very much inconvenience to a lot of people who are planning to retire and move to some other place from where they worked; is that not correct?

Mr. INOUYE. The Senator is absolutely correct.

Mr. LONG. I have talked to people involved in this Sears & Roebuck pension plan, and I do not really regard it as a loophole, where people have earned their retirement over a long period of time, that they are permitted to have capital gains treatment. I think that, while perhaps some people might receive an undue tax advantage, the overwhelming bulk of the people affected are those with modest means, who work hard for the retirement benefits to which they are entitled, and I would, therefore, very much dislike to see capital gain treatment taken away from them. Thus, I shall vote for the Senator's amendment.

Mr. INOUYE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Hawaii.

Mr. WILLIAMS of Delaware. Mr. President, with reference to the effect of this amendment, I would like to read some figures given in the President's 1963 tax message relating to a proposal to deal with this problem. These are actual cases where employees received very large lump-sum distributions and gained the benefit of the low capital gains tax on these distributions.

I ask unanimous consent that a table listing these lump-sum distributions be printed in the RECORD.

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

1. The following lump-sum distributions were received under the pension plan of Employer M within the period from 1954 to 1960:

	Amount
Employee A	$524,164
Employee B	503,670
Employee C	428,617
Employee D	342,280
Employee E	335,647
Employee F	314,556
Employee G	283,643

2. The following lump-sum distributions were received under the profit-sharing plan of Employer N during the years 1960 through 1962:

	Amount
Employee A	$800,000
Employee B	400,000
Employee C	365,000

During 1962, over 10 employees received lump-sum distributions of $200,000 or more under this profit-sharing plan.

3. A lump-sum distribution of $843,000 was received under the pension plan of Employer O in 1959.

4. A lump-sum distribution of $332,348 was received under the pension plan of Employer P in 1961.

Mr. WILLIAMS of Delaware. Mr. President, this table, which as I said, is derived from information in the President's 1963 tax message shows one employee receive a lump-sum distribution of $524,164. Another employee received $503,670. Yet another employee received $428,617, and so forth on down the line.

I think the Senate should be aware of what we are voting on here. We are dealing with large benefits for certain individuals who are deferring their salary income and who under present law only pay a tax at capital gains rates when they receive that deferred income. This is one of the loopholes that preceding Presidents as well as the present President, have recommended should be corrected. The committee's bill does deal with the loopholes.

I hope the amendment which would strike the reform from the bill will be defeated.

Mr. LONG. Mr. President, about $10 million is involved in this amendment——

Mr. WILLIAMS of Delaware. The original estimate was $5 million in 1971, $10 million in 1972 and $55 million ultimately.

Mr. LONG. I am advised that about $10 million is involved in this amendment.

Mr. President, in the bill we have increased the capital gains tax from a 25 percent tax up to a 37½ percent tax. So the capital gains tax, by virtue of this bill, becomes a graduated income tax. To be sure, it is not a graduated income tax going up as high as the tax on ordinary income, but now we have it, by vote of the Senate, up to 37½ percent.

So if one who is making a substantial income receives a lump sum distribution from a pension plan, he would have under the bill a substantial increase in tax on the lump sum distribution by virtue of what we have done in increasing the capital gains tax rates—the top rate, in fact, is increased by 50 percent.

That being the case, it would seem to me that the people who were retiring under the Sears, Roebuck or Proctor & Gamble retirement plans would have their taxes increased substantially, anyway.

I tend to agree with the Senator from Hawaii. I do not like to see these people taxed more than others. It may be that my opinion may put me at variance with others, but I find myself in sympathy with these people who want to retire and move to a pleasant climate.

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

The assistant legislative clerk called the roll.

Mr. MANSFIELD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Virginia (Mr. BYRD), the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), and the Senator from Virginia (Mr. BYRD) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 50, nays 37, as follows:

[No. 189 Leg.]

YEAS—50

Bayh	Hruska	Packwood
Bible	Hughes	Pastore
Brooke	Inouye	Pearson
Cranston	Jackson	Percy
Curtis	Javits	Prouty
Dodd	Jordan, N.C.	Randolph
Dominick	Long	Smith, Maine
Eagleton	Magnuson	Smith, Ill.
Eastland	Mansfield	Sparkman
Ervin	McCarthy	Spong
Fong	McClellan	Stennis
Gravel	McGee	Talmadge
Griffin	McIntyre	Thurmond
Gurney	Metcalf	Tower
Hatfield	Montoya	Tydings
Holland	Murphy	Young, Ohio
Hollings	Muskie	

NAYS—37

Aiken	Fannin	Nelson
Allott	Fulbright	Pell
Baker	Goodell	Proxmire
Bellmon	Gore	Ribicoff
Bennett	Hansen	Russell
Boggs	Harris	Saxbe
Burdick	Hart	Scott
Case	Hartke	Williams, N.J.
Church	Jordan, Idaho	Williams, Del.
Cook	Mathias	Yarborough
Cooper	McGovern	Young, N. Dak.
Cotton	Miller	
Dole	Moss	

NOT VOTING—13

Allen	Ellender	Schweiker
Anderson	Goldwater	Stevens
Byrd, Va.	Kennedy	Symington
Byrd, W. Va.	Mondale	
Cannon	Mundt	

So Mr. INOUYE's amendment was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 392

Mr. RIBICOFF. Mr. President, I call up amendment No. 392.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, reads as follows:

On page 23, line 16, strike the phrase "one-fifth of 1 percent" and insert in lieu thereof, the phrase "one-tenth of 1 percent (for taxable years beginning in 1970, one-fifth of 1 percent)."

On page 24, after line 20, insert the following new subsection:

"(c) ADJUSTMENTS IN RATE OF AUDIT-FEE TAX.—The Secretary or his delegate shall maintain such records as are necessary to reflect accurately both the costs of administering the provisions of this chapter and the total taxes collected under subsection (a). He or his delegate shall report annually to the Joint Committee on Internal Revenue Taxation the total amount of the taxes collected under subsection (a) and the total costs of enforcing the provisions of this chapter and shall recommend to the committee the rate of audit fee which shall reasonably approximate the costs of such audit."

The PRESIDING OFFICER. Does the Senator wish to consider the amendments en bloc?

Mr. RIBICOFF. Yes, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. RIBICOFF. Mr. President, the amendment is being offered on behalf of the Senator from Nebraska (Mr. CURTIS), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. PERCY), and myself.

Mr. President, I ask unanimous consent that the names of Senators HATFIELD, TOWER, JAVITS, RANDOLPH, and HRUSKA be added as cosponsors of the amendment.

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

Mr. RIBICOFF. Mr. President, the purpose of the amendment is to carry out the recommendation of the Finance Committee.

On page 27 of the report, the committee pointed out that for the first time they were establishing a user charge to pay for the cost of auditing the assets of foundations. However, on a study of the actual costs, there is no question that after the first year a fee of one-fifth of 1 percent will bring in twice as much money as necessary to audit foundations.

Since this is not a tax, but is really a service charge, it is our feeling that the rate should correspond with the actual cost to the Internal Revenue Service for auditing the assets of foundations. And, as a consequence, we do believe that after the first year it should be lowered to one-tenth of 1 percent of assets.

At the suggestion of the Senator from Illinois (Mr. PERCY), we added an additional sentence to provide: "and the total costs of enforcing the provisions of this chapter and shall recommend to the committee the rate of audit fee which shall reasonably approximate the costs of such audit."

Mr. President, since the Percy amendment would require the foundations to pay out 6 percent of assets, there is no justification whatever, for charging them this extra money.

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

Mr. RIBICOFF. I yield.

Mr. CURTIS. Mr. President, I wholeheartedly support the amendment.

There was a clear-cut vote in the committee on whether we should have a tax for revenue or an audit fee so that the foundations could be thoroughly, automatically, and continuously audited. The committee turned down the idea of a tax for revenue and agreed to the audit fee proposal. In this action, we were in accord with the principle advocated by the Treasury.

The Treasury advocated a 2-percent tax on income.

The committee based the charge on the assets of the corporation and for a very valid reason. The foundation that hoarded its assets and did not produce very much income would pay a low tax. The foundation that produced all the income they could and paid it out would have to pay a higher tax.

There are several places in the bill where they are required to ascertain the value of their assets.

So, first the committee fixed a tax on assets. I point out that if we transfer the Treasury's recommendation of 2 percent on income to assets, that is equivalent to one-tenth of 1 percent at 5 percent. And we have already provided for a 6 percent tax.

The amendment will bring in all of the money we need. We want a thorough audit. It will be in line, I think, with what many members of the committee wanted. It will correspond in amount to the amount the Treasury recommended.

I hope the amendment is agreed to.

I thank the Senator for yielding.

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

Mr. RIBICOFF. I yield.

Mr. PERCY. Mr. President, I indicate my solid support for the amendment. I appreciate very much the acceptance by the Senator from Connecticut of the suggested amendment language.

I think the Senate Finance Committee took a major step forward in recognizing that there should be a charge against assets rather than against income.

I think the implication of the House version of the bill is that there is to be an income tax imposed on foundations. And nothing could be more ridiculous or harmful, because what would we do if we had a 7-percent tax on income of foundations?

We would take the 7 percent of income away from the foundations from which it goes mainly to education, health, and basic research. We would then move that income into the Treasury Department, appropriate the money through Government channels to the very same type agencies for the very same purposes. However, we would deduct the cost of the administration of the Government. We would have Government employees rather than foundation personnel. And we would lose the benefit of receiving all the volunteer help received by the charitable, educational, and health institutions that are in the volunteer private sector. Moreover, past experience has indicated that we cannot always be sure these Treasury funds would go toward priority programs.

Actually, we would be shrinking the benefits that would be received by the people of the United States as a result of our action.

This amendment is intended to make clear that we are not seeking to impose on income tax for revenue purposes, but

only a charge to provide an amount sufficient to cover the audit services to be performed by the Treasury Department and which the foundations themselves are quite willing to pay for. I therefore fully support the amendment.

Mr. RIBICOFF. The Senator is correct. We are not really at variance with the Finance Committee.

I again praise the Finance Committee for even thinking of putting this into the pending bill. Once the audit is made, the Government and the country for the first time, will really know what foundations are all about, where their assets are, where they are going, and what they are doing.

I commend the Finance Committee for taking a step that would accomplish this.

We are trying with this amendment to bring the bill into line with what the report says the intentions are.

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

Mr. RIBICOFF. I yield.

Mr. RANDOLPH. Mr. President, I commend the able Senator from Connecticut for offering the amendment with the cosponsorship of other interested Senators. I have listened to his presentation, and to the remarks of the Senator from Nebraska (Mr. CURTIS), and the remarks of the Senator from Illinois (Mr. PERCY); and I am gratified at the apparent feeling of unity in reference to this matter. I trust that the Finance Committee, through its leadership on both sides of the aisle, will believe that this approach—which is a strengthening amendment, as it were, and a clarification—can be incorporated in the pending bill. The Senator from Texas (Mr. TOWER) also has been interested in this amendment and other Senators have indicated their support.

I emphasize that it is very important to realize that in most of the foundations there are persons by the hundreds throughout the United States who are working as volunteers. The officers and directors of the foundations are often paid nothing for their work. The moneys that are contributed from the foundations to worthy causes are carefully considered; and, by and large, programs of the educational institutions, the merited scholarships, and the additions to our medical facilities—all programs vital to the progress of our American society—have been carried forward by volunteers—people who are knowledgeable and realistic as to local and national needs and perform a service without compensation.

It is right that such people be encouraged, that these concerned citizens continue their work, and that we not duplicate with unnecessary government, through employees of the Federal structure, in such bookkeeping.

Mr. RIBICOFF. I thank the Senator.

Mr. President, I ask unanimous consent that the name of the Senator from Kansas (Mr. DOLE) be added as a cosponsor of the amendment.

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

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

Mr. RIBICOFF. I yield.

Mr. CRANSTON. Mr President, I should like to speak in regard to and in support of the Senator's amendment, with particular reference to the amount that would be made available for audit purposes by the amendment.

Ever since I learned of the action taken in the other body to deal with this topic, and then the action taken in the Senate committee, I have been seeking to ascertain how much money would be required by the Bureau of Internal Revenue to conduct the audit authorized by the bill. The amount appeared to me, initially, to be excessive, and I base that upon my own knowledge of auditing costs acquired through service as State Comptroller in California.

The Bureau of Internal Revenue was quite reluctant, and the Treasury Department was perhaps even more reluctant to come up with a figure. I kept pressing for a figure. On Friday I was told informally that a figure would be made available to me during the day, in the form of a letter that would be signed as soon as the top person became available to sign the letter. We managed to learn informally from somebody of high position in IRS—a person I think totally knowledgeable in this area—that the amount made available by the committee bill was more than was required and that the amount proposed in the pending amendment was totally adequate for the sort of audit that Congress wishes.

Then, for whatever the reason may be—the IRS letter was not made available. The formal statement was withheld, without explanation I suspect that the reason may well be that the Treasury or the Bureau of the Budget would like to have the extra $25 million that would be made available by the committee bill. That, of course, amounts to taxing the foundations an extra $25 million, roughly, which is contrary to the will of the committee; because the committee has made plain that it does not want a tax, that it simply wants to make available whatever funds are adequate for the audit. I am sure all of us agree that the audit would be very helpful, and that adequate funds should be made available to cover its cost.

So I strongly urge—and I base this upon the information that comes from the executive branch—support of the amendment, which would make available the funds required, and no more than are required, for the audit we all want.

I would also like my name to be added as a cosponsor of the amendment.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the name of the Senator from California (Mr. CRANSTON) be added as a cosponsor of the amendment.

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

Mr. RIBICOFF. The Senator is correct. Originally, when we were drawing this amendment, we thought we would make it one-tenth of 1 percent, beginning the first year. But after discussions with the staff, we found that one-tenth of 1 percent would not quite cover the first year. It is estimated that this will cost approximately $25 million a year, and the $25 million a year will be covered after the first year by one-tenth of 1 percent. The one-fifth of 1 percent will bring in in excess of $25 million. In any event, once the audit is made and the IRS knows the actual cost, they will make a recommendation; and when the recommendation is made, if it requires more than one-tenth of 1 percent, we can increase the one-tenth of 1 percent figure.

So it is certainly the desire of the cosponsors to make sure that the general tax revenues in no way pay for the cost of the audit, but that actual cost of the audit will, throughout the years, be borne by the foundation, by the adjustment of tax rates.

Mr. CRANSTON. I thank the Senator for that response, and for his fine work in this matter.

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

Mr. RIBICOFF. I yield.

Mr. PERCY. One thing that I think should be pointed out is that the one-fifth of 1 percent in the first year would provide approximately $50 million. With that amount, 5,000 men could be hired at $10,000 a year each. I cannot imagine that the Treasury Department anticipates requiring or hiring that type of force. But whatever they require to do a thoroughly adequate job, that is what our intention is, and that is the intention of the foundations. The intention is not harassment; no one is thinking about that. The intention is a thorough audit and to make certain that they can verify what has transpired.

I think we have helped considerably by requiring annual public accounting and an annual CPA report to be made by the foundations. The Treasury Department certainly can rely on and use the material that is developed by the CPA's. So that when the amount drops back to the equivalent of approximately $25 million a year, I think that still will be more than adequate. If for any reason they require more, the amendment I have added—and which I appreciate the Senator from Connecticut accepting—provides for the Treasury Department to inform the Congress whether an escalation or decrease in audit charges are necessary or desirable.

Mr. RIBICOFF. The Senator is correct.

Mr. PERCY. And this is perfectly acceptable to the foundations. They recognize that it may be reduced or increased. I cannot imagine that it would be increased, but we have made adequate provision.

I also wish to affirm that which was stated by the Senator from Connecticut regarding the increase we have now made over the committee bill in the percentage of assets to be paid out by the foundations. There is no question—and I reiterated it when I offered the amendment increasing the payout from 5 to 6 percent—that it is going to require some adjustment on the part of some foundations that have been paying out considerably less than this. But, having done that—and I hope it will be sustained by the conference, and I have every reason to believe that it will be—we do not wish

to add a punitive tax of any kind at this stage.

Mr. LONG. Mr. President, the tax that was levied for audit purposes in the Finance Committee bill was fixed at the rate in the bill because we wanted to be sure that it would yield enough revenue to meet the costs of the audit work. Since that time, this Senator has made some studies and has consulted with our staff. I have been advised that after the first year less money may be needed for audit purposes than in the first year.

We really have no desire to collect more than is needed for audit purposes. We believe that the amount suggested by the Senator's amendment will be adequate for this purpose. If it is not, we can increase it later, and the amendment contemplates that.

The major benefit of this bill, if it becomes law—and I believe it will—is that for the future we can expect to have these foundations do a great deal more work with their resources than they have done in the past. I am pleased to see the Senator from Illinois nodding, because the bill moves in that direction—to make them pay out more of their resources for charity, for education, and for other worthy purposes.

We believe the foundation provisions of the bill will do a world of good, not by raising revenue but by regulating the activities of foundations and requiring a significant benefit to charity to flow from their resources. So, in justification, the amendment seeks to tailor the revenue raised more closely to the audit needs after the first year. It would not change the amount raised in the first year, while we are determining how much is to be needed.

I have no objection to the amendment. If we find the amount of revenue in the second year and the third year is not enough for audit purposes, we would have little difficulty increasing the tax to achieve whatever revenue might be needed for that purpose.

Mr. WILLIAMS of Delaware. Mr. President, I do not argue with my friend, the Senator from Connecticut. The question is: Is that all we wanted to achieve? There is not a taxpayer in America who would not be delighted to have his tax obligation limited to the cost of auditing his returns.

The bill as it was passed by the House and sent to the Senate was based on the premise that these foundations would be taxed at 7.5 percent on their investment income. Under that proposal $65 million of revenue would have been produced in the first year, and thereafter it would have advanced to $100 million. The Committee on Finance, in changing the method of taxing foundations to a tax on assets instead of on income would provide $40 million of revenue the first year, which would rise eventually to $55 million. The pending amendment would not change the revenue in the first year but would thereafter cut the amount back by at least one-half, on the average, so that eventually it would result in a $27½-million cutback.

This is a question of degree. How far do we want to go toward taxing these foundations? Again, it is erosion, but recognizing there are only about 12 or 14 shopping days before Christmas and that the Senate is dealing with a Christmas package and also realizing the overgenerosity of the mood of Congress I shall not delay the Congress by requesting a record vote on something for which I know they would vote.

Mr. RIBICOFF. Mr. President, it should be pointed out that what I am trying to do is to carry out the thinking of the committee. On page 27 of the report of the Committee on Finance it is stated:

> The committee views this tax as a supervisory fee and as an indication of the amount of funds needed by the Internal Revenue Service for proper administration of the Internal Revenue Code provisions relating to private foundations and other exempt organizations.

I think the Senator from Delaware will agree that the 1 percent in the first year is more than enough to cover all the supervision we need. In the first year if it is indicated that one-tenth of 1 percent in subsequent years is not sufficient, then the provision on page 2 of the amendment which requires the Internal Revenue Service to make this known and recommend what is needed to pay for the supervision, does give the Committee on Finance and the Congress an opportunity to raise that one-tenth of a 1 percent.

Again, I say it was not the intention of the committee at any time during the consideration of the measure to provide that the Treasury was to make money to pay for the costs. My amendment carries out the thinking and the wishes of the Committee on Finance.

Mr. WILLIAMS of Delaware. Mr. President, I shall not delay the Senate by arguing the matter further. There were some members of the committee who felt the purpose of the bill was to raise revenue for the U.S. Government.

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

Mr. PERCY. I yield.

Mr. GOODELL. Mr. President, I wish to commend the distinguished Senator from Connecticut and the distinguished Senator from Nebraska for offering the amendment. I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. MUSKIE in the chair). Without objection, it is so ordered.

Mr. GOODELL. Mr. President, I would like to direct a comment to the chairman of the committee. I think the important part of the change that has been made in the Senate on this question was made in the Committee on Finance. We can differ as to how much is necessary to enforce the auditing of the foundations, but the critical change was made in the committee to raise the money necessary by a supervisory tax on the assets of the foundations rather than on income.

I would like to ask the distinguished Senator from Louisiana if it is his feeling that the Senate conferees will stand very strong on the principle that whatever tax we have to audit the foundations, it should be a tax on assets rather than income.

Mr. LONG. Mr. President, the Senator from Louisiana will stand by the Senate position, but I think I should make it clear that while I believe the Senate will prevail numerically in the conference on this bill with regard to a great number of the committee amendments and floor amendments, I think I would be misleading the Senate if I said that I think we can make the House agree in terms of dollars of revenue.

Mr. GOODELL. I understand.

Mr. LONG. That is a different matter. What is being discussed here involves a very small amount of revenue. But I believe when the House takes a look at this bill and sees the revenue shortfall—which because of floor amendments is going to be far greater than that of the House bill—I think the House is going to insist on prevailing in terms of dollars, although we may prevail in other regards.

Mr. GOODELL. I understand that in committee there was overwhelming sentiment with regard to a supervisory tax based on foundation assets rather than income.

Mr. WILLIAMS of Delaware. That sentiment was about the same as the overwhelming sentiment against the Gore amendment.

Mr. GOODELL. I hope not.

Mr. WILLIAMS of Delaware. That includes many of the other amendments.

As one potential conferee I am speaking on many of the other amendments in this better than $10-billion Christmas tree package. The Senate is going to pass a bill providing over a $10-billion loss in revenue as the result of adoption of the many amendments we have passed—and I am not speaking of this amendment in particular.

Any number of Senators have said to me, "I voted for that amendment, but you can eliminate it in conference." In my opinion those who voted for these amendments and who want to brag about their votes back home had better send to conference only those conferees who will stand by the amendments. Personally I would not serve as a conferee unless it were understood that we should try to bring back a good bill in spite of Senate action.

Mr. GOODELL. Mr. President, I am glad the Senator has made this point. I voted with him on the Gore amendment.

We are not talking here about the revenue-raising principle: we are talking about the principle of whether foundations should be taxed on income or on assets, so that a tax will not be raised at a later day which would make it a full tax on income.

Mr. WILLIAMS of Delaware. Mr. President, I recognize that generally it is the obligation of the conferees to go to conference and defend the position of the Senate without regard to the individual position of conferees. I recognize that as a general principle. But I am speaking here of not just the Gore amendment, but the more than $10 billion overall revenue loss which has been added to this bill by floor amendments which has no relation to tax reform. I want to clarify my position as a potential conferee. On this amendment, I supported in committee the principle that these foundations should pay taxes. I still think they

should, and as a potential conferee I have not changed my mind. I think other Senators feel differently. I think the Senator from Louisiana expressed that quite well.

Mr. GOODELL. On the Gore amendment we had a rollcall vote. We are not going to have a rollcall vote in the Senate to test the sentiment of Senators of this principle. Conferees will be going to the conference without the overwhelming sentiment of the Senate as expressed in a rollcall vote. That is why I raised the point. I think that overwhelmingly the Senate would back up the Committee on Finance to tax assets only enough to audit the funds. We would oppose the position taken in the House.

Mr. LONG. Mr. President, so far as I am concerned, I have never felt that the presence or absence of a rollcall vote made the least bit of difference when we went to conference on something that the Senate wanted to do. When the Senate wants to do something, that is what it wants to do. It is generally my impression that if something can be agreed to by a voice vote, whether it happens to be unanimous or not, if agreed to, that is the expression of the Senate. But, if a Senator wants to make a record and have a rollcall vote, that is his privilege. So far as I am concerned, however, it does not mean that the Senate is any more for an amendment than if we agreed to it by a voice vote.

The committee was closely divided on the issue of the audit fee concept, but that concept did prevail in the committee. When we go to conference, however, we certainly cannot guarantee that we will run over the House conferees in order to prevail because, as we all know, that cannot be done.

Mr. RIBICOFF. May I say, for the benefit of my colleagues, that I have the utmost confidence in the conferees of the Senate Finance Committee. I have discussed this amendment with the chairman and the ranking minority member and I think they understand how the Senate feels. They certainly will back up their basic report. I am satisfied that the Senator from Louisiana, whether this is a rollcall vote or a voice vote, understands the sentiments of the Senate. I have the utmost confidence that he will do everything he can in conference to have those sentiments prevail.

I do not seek to delay the proceedings of the Senate any further. We are all anxious to get this bill over with. But it should be pointed out that even the remarks of the distinguished Senator from Delaware in what he was talking about, the amendments that were added to the bill, costing huge sums of money, he kept on saying that he does not include this amendment, he does not include this amendment.

Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. INOUYE) be added as a cosponsor to the amendment.

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

Mr. RIBICOFF. Mr. President, the fact that so many Senators wish to be cosponsors of the amendment should be getting the message across to the chairman.

Mr. LONG. So far as I am concerned, if people want to insist on delaying the Senate with rollcall votes before taking something to conference, that is all right with me, but either a rollcall vote or a voice vote will make no difference in conference.

Mr. WILLIAMS of Delaware. I agree that there is no difference whether we have a rollcall or a voice vote. I only said that I would not ask for a rollcall vote in order to expedite the business of the Senate. We have already spent more time talking about having a rollcall vote on this amendment than it would have taken to have the rollcall itself. Let us vote either on a rollcall or on a voice vote and get on with our business.

Mr. MOSS. If I understood the Senator from Delaware correctly, he spoke of the amendments that had been added in the Senate that would cost money and he said that as a potential conferee he was going to see that they were rectified in conference. It seems to me that the Senator is announcing in advance that if things that do not accord with his view on the tax bill, he will not support them as a conferee if he goes to conference on the bill as one. Is that correct?

Mr. WILLIAMS of Delaware. I was not necessarily speaking of this amendment. I said we have already approved amendments which will result in a loss in revenue of nearly $12 billion. We just cannot afford such irresponsible action, and I would not be bound as a conferee to do so. I want that clearly understood.

Mr. MOSS. I understood there were other amendments, not just this one.

Mr. WILLIAMS of Delaware. The amendments that have been added on the floor to the bill will cost over $10 billion next year. Another $1.7 billion of additional cost will be added in later years. I do not think we can afford that. There will be an effort made later to correct it, but if we do not correct it I want to make it clear that I would not be bound as a conferee to pledge to support those amendments.

Mr. MOSS. That is the point I wanted to have clarified. When the Senator says in advance that he could not support any of the amendments that have been added to the bill, he is saying that he would apparently——

Mr. WILLIAMS of Delaware. Senators might be interested in knowing that some of the Members who have offered amendments have come up to me later and said, "I do not care if you delete that amendment in conference." [Laughter.] I will not be a party to such political hypocrisy.

Mr. RIBICOFF. I have such confidence in the conferees that a voice vote will be satisfactory.

SEVERAL SENATORS. Vote! Vote! Let us vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF).

The amendment was agreed to.

AMENDMENT NO. 390

Mr. CURTIS. Mr. President, I call up my amendment No. 390 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

Add a new section which reads as follows:

"That (a) section 6015(f) of the Internal Revenue Code of 1954 (relating to return considered as declaration or amendment) is amended by striking out 'February 15' and inserting in lieu thereof 'March 15'.

"This amendment shall apply with respect to taxable years beginning after December 31, 1968."

Mr. CURTIS. Mr. President, I shall try to be very brief in my explanation of the amendment. It does not involve any revenue. It will not cost the Treasury Department one dime. It will not raise any additional money.

Mr. President, I ask unanimous consent that the names of the distinguished Senator from Iowa (Mr. MILLER) and the distinguished Senator from North Dakota (Mr. YOUNG) be added as cosponsors of this amendment.

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

Mr. CURTIS. Mr. President, I am offering the amendment primarily because the distinguished Senator from South Dakota (Mr. MUNDT), who would have offered it as an amendment to the bill, cannot be here.

Here is the situation: Farmers just cannot file their income tax returns in advance and make an estimate because of the hazards of weather, of price, of inability to market, of high expenses, and so forth, when they do not know whether they will have a profit, as a result.

In years gone by, farmers have been required to make their tax returns early. That worked all right for awhile, but today the situation has changed. Many farmers find it necessary to seek outside employment. The wives of many farmers also seek outside employment, and the time comes for a farmer to file his tax return before his wife has received her W–2 form or he has received one, which creates a tremendous burden in the rural areas.

Last year, in my State, we had a series of snowstorms all through the time farmers were required to file their tax returns. They still will have to file them ahead of other people, who have until April 15.

The pending amendment would extend the time for farmers to file a return from February 15 to March 15.

I repeat, it does not involve any revenue. It is merely procedural. I cannot imagine the Treasury finding it difficult. I am offering the amendment on behalf of the Senator from South Dakota (Mr. MUNDT), as well as myself and the other cosponsors.

It is my hope that it can be accepted. If, when we get to conference, there are some problems that none of us know about now, they will have to be taken into consideration at that time. But I believe it is just and fair and will cost the Treasury Department nothing.

Mr. MILLER. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. MILLER. I commend my colleague from Nebraska, and also the distinguished Senator from South Dakota (Mr.

MUNDT), for sponsoring the amendment. I am very much pleased with it, and join him in urging its adoption.

To point up what the Senator from Nebraska has just said, early this year there were very severe hail storms and snowstorms and very, very cold weather out in our part of the country, which prevented many farmers from filing their returns by February 15. Because they failed to do so, even though the reasons were most understandable, some of them still had penalties for not filing declarations of estimated tax. We learned from the Treasury Department that those penalties were mandatory and could not be waived for good reason.

So the result of this amendment, by granting an additional month, will be to avoid the problem altogether.

I commend again the Senator from Nebraska for bringing this matter to the attention of the Senate. I hope the amendment will be adopted.

Mr. CURTIS. I thank the Senator. This amendment will not stop the flow of money into the Treasury. These farmers are anxious to make their returns as soon as possible.

Mr. WILLIAMS of Delaware. Mr. President, if the chairman of the committee is willing, I would have no objection to taking the amendment to conference. I think it should be, not only because of the arguments that have been made, but also for the following reason: No one in the country knows what final action we are going to take on the tax bill. The investment tax credit, for example, is supposed to be repealed effective last April. Yet how can a man compute his tax return by January or February unless he knows whether or not he can take investment tax credit?

It is unfortunate that we are in this position. I pointed out last August that we should have settled it. But we did not do so, and because people will be required to file income tax returns for 1969 without either they or the Treasury or for that matter, Congress knowing what the tax law will be. I think we have no choice but to accept the amendment.

Mr. LONG. Mr. President, in view of the statement of the senior Senator from Delaware, I find myself in agreement. I am willing to go to conference with the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 316

Mr. CURTIS. Mr. President, I now have a small amendment that I shall call up which will affect revenues. I want to be very frank about it. I do not think it will amount to much, but in this complex bill not everything could be reached in the committee, and I do not want to be in the position of misleading the Senate or my colleagues. I shall explain what the amendment is.

Mr. President, I call up my amendment No. 316 and ask that it be printed in lieu of its being read.

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

The amendment (No. 316) is as follows:

Page 262, line 4, strike out the closing quotation marks, and after line 4 insert the following:

"(c) EXCEPTION.—Subsection (a) shall not apply to the component members of a controlled group of corporations within the meaning of section 1563(a)(2) on a December 31, for their taxable year which include such December 31, if—

"(1) the aggregate taxable incomes of the members of such group for their taxable years which include such December 31, does not exceed $100,000, and

"(2) such controlled group makes an election under section 1562(a) which is effective for the taxable years of such members which include such December 31."

Page 262, strike out lines 5 and 6 and insert the following:

"(2) Section 1562 (relating to privilege of controlled groups to elect multiple surtax exemptions) is amended—

"(A) by inserting after 'A controlled group of corporations' in paragraph (1) of subsection (a) 'described in paragraph (4)';

"(B) by adding at the end of subsection (a) the following new paragraph:

"'(4) CONTROLLED GROUPS ELIGIBLE TO MAKE ELECTION.—An election under paragraph (1) may be with respect to a specified December 31 after 1969, only—

"'(A) by a controlled group of corporations within the meaning of section 1563(a)(2), and

"'(B) if the aggregate of the taxable incomes of the component members of such group for their taxable years which includes such December 31 does not exceed $100,000.';

"(C) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"'(2) YEARS FOR WHICH EFFECTIVE.—An election by a controlled group of corporations under paragraph (1) shall be effective with respect to the taxable year of each component member of such group which includes the specified December 31.';

"(D) by striking out 'section 1561' in paragraph (3)(A) of subsection (a) and inserting in lieu thereof 'sections 1561 and 1564'; and

"(E) by striking out subsections (c), (d), and (f)(1) of such section 1562."

Page 262, lines 8 and 9, strikes out "items relating to sections 1561 and 1562" and insert "item relating to section 1561".

Page 272, line 22, insert "paragraphs (1) and (3) of" before "subsection (a)".

Page 272, line 24, after the period insert the following: "The amendments made by paragraph (2) of subsection (a) shall apply with respect to taxable years beginning after December 31, 1973, except that, if a controlled group of corporations so elects (as such time and in such manner as the Secretary of the Treasury or his delegate prescribes), such amendments shall apply with respect to such controlled group and its component members with respect to any taxable year beginning after December 31, 1969, and before January 1, 1974."

Mr. CURTIS. Mr. President, if Senators will follow me, I will state what is involved in the amendment.

A small corporation is taxed at 22 percent. When its income gets above 22 percent, the tax becomes 48 percent. That is a national policy. It is a good policy. But, as sometimes happens, loopholes spring up.

A great business concern, operating from the Atlantic to the Pacific, organized each retail outlet—if they were retail outlets—as a separate corporation, and thus got the lower tax on each one. The committee, with the concurrence of the Senate, plugged that loophole, so that a giant concern, as a parent corporation, could not organize dozens and dozens of subsidiaries and have each subsidiary treated as a small business. We provided that they must all be put together and taxed as one entity and that they have only one surtax exemption.

What I am getting at is that this amendment is not only a small business amendment; it is an amendment of great concern to small towns and rural areas. An individual, or perhaps a group of individuals, in order to keep a town alive, in order to prevent businesses from going broke, will own two or three businesses. It may be the local newspapers. It may be retail establishments. It may be small manufacturing concerns. Actually, each one of them is a small business.

Under the bill as it came from the House and the bill as reported by the Senate committee, they would be merged together, and so, in reality, they would not be treated as a small business.

We call those corporations brother and sister corporations, where the same owners own substantially all the stock of the others.

My amendment continues to plug the loophole in the case where great corporations break down their individual operations into small corporations and therefore have them all treated as small businesses. I am in favor of plugging that loophole. It brings in about $350 million. But I think it goes a little too far.

My amendment provides that where there is a group of brother and sister corporations and those small businesses are in the same community, if the total income—not the income of each one, but the total income from all of them—does not exceed $100,000, they operate under the existing law.

I think this is a sound proposal and gives proper recognition to small business. It does not interfere with the plugging of a larger loophole.

I have before me a letter from a public spirited man in a small community. He writes:

> I own 5 unrelated small businesses which I started and built up. They average about $10,000 a year profit.

Then he states that the House bill and the bill as reported by the Senate would take away this small-business advantage because the businesses have similar owners. I think that procedure is wrong. We need little businesses in our communities. Someone may say, "Well, that man is wealthy." Perhaps he is. But the community needs small businesses. Such a man will either close out or will sell his businesses to a gigantic concern, thus adding to trusts, mergers, and bigness.

This amendment is a small-business addition to what the House and the Senate have done. Again I say, as I did in connection with the previous amendment, that should it develop that in considering this amendment in conference it is found to be difficult or unworkable, or that there are instances in which it would promulgate an injustice, I would be the first to concede that it ought not be the law.

Senators may wonder why these amendments are offered on the floor of the Senate, not in committee. Frankly,

if Senators will notice, the bill contains 585 pages. The committee worked night and day and worked fast. Some of these items were brought up immediately afterward.

I believe the amendment is good. I hope that it will be agreed to. I would be greatly pleased if the chairman saw fit, without a yea-and-nay vote, to take it to conference. In any event, it is my hope that the amendment may be in the bill, because without it, the conference will have its hands tied, that we are abusing a loophole that they intended to apply to great businesses, there is no escape to preserve the separate corporate entity for tax purposes of some very small businesses.

Mr. President, I hope the amendment will be agreed to.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that his amendments be considered en bloc?

Mr. CURTIS. Yes.

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

Mr. LONG. Mr. President, this is an area in which the Senate Finance Committee. I am happy to say, was tougher than the House of Representatives in the area of tax reform. The House would have plugged the loophole on the use of multiple surtax exemptions by a number of commonly controlled corporations by phasing out the special tax advantages over an 8-year period. The Finance Committee believed these special benefits should not be allowed to continue for that long a period and voted to phase out the advantages over a 5-year period.

The Senator's amendment would continue these special benefits in some cases, would cost $50 million in revenue, and would benefit only a relatively small number of people in this country. I might explain that, as it stands today, once the 5 percent surcharge goes off, small corporations—and all corporations, for that matter—will pay a 22-percent tax on the first $25,000 of taxable income. Above that level of income, they will pay a 48-percent tax.

I am aware, and I am sure most Senators are aware, of instances where what in reality is a large business enterprise has split up its activities into a large number of corporations in order to take advantage of this provision of the law. If the income of each of the corporations is kept below the $25,000 income level, they save annually, in taxes, $5,000 for each corporation. If they are able to do business in a fashion that permits them to keep their earnings inside the company, rather than paying it out in dividends, large amounts of money can be accumulated in these corporations. If an individual has, let us say, 8 or 10 such corporations, he can save a great deal of money.

At one time the law permitted a person to have any number of these corporations. A person could have as many as 100, or 200 or 300 corporations, if he wanted to organize that many. If he was able to carry on his business in such a fashion, he would be paying no more than 22 percent tax for each corporation. On the other hand, if that person had his investment in one corporation and carried on his business through that one corporation, he would be paying a corporate tax of more than 50 percent. And if he had been making that much money as an individual, he could be paying a marginal tax of up to 77 percent.

We restricted this loophole in 1964; the House has now voted to tighten it again, and the Senate Finance Committee has sought to restrict it even further than the House.

The Senator's amendment, however, would maintain this loophole permanently in the law to the extent the corporation's income was not over $100,000. It would seem to me that since this is a loophole available to almost anyone in almost any line of endeavor we should reject the amendment to continue the loophole, which would give tax advantages to the individuals affected of almost $50,000,000, according to the Treasury's estimate.

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

Mr. LONG. I yield.

Mr. CURTIS. I agree with the Senator in the main, though with one distinction. The loophole we were dragging was a situation where big business broke itself up, so to speak, into little businesses, to get the advantage of the lower rate. I am talking primarily about unrelated businesses. It could not be big business, because if the whole group together have $100,000 in income, my amendment would not apply. To meet that situation, where several little businesses are really little businesses, but maybe they have the same ownership—and that is very different from a gigantic, nationwide business, that deliberately breaks itself up into little pieces to obtain a lower tax rate—is the purpose of the amendment.

Mr. LONG. Mr. President, if we are going to make exceptions to what the committee has done, to eliminate the use of multiple surtax exemptions, I suppose this would be about as good an exception as any; and if the Senate wants to vote an exception, I suppose it might as well vote this as some other one, as far as equity and merit are concerned. I must say, however, that this amendment would have a major revenue impact of $50 million, and I submit that it does not take many amendments like this to so strike away at the reform we have in this bill that soon there will be little reform left.

So, Mr. President, I feel compelled to resist the amendment, and I hope very much the amendment will be rejected.

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

Mr. CURTIS. Mr. President, one more thing, on the $50 million loss of revenue. I have tried for several days to ascertain the estimated loss of revenue. The Treasury were unable to say. It is actually difficult.

I am not disputing my able chairman's statement, but I doubt very much if the impact would run anywhere nearly that amount And after all, in this area, we are increasing the revenue by about $350 million, and if my amendment is adopted, these little businesses will not only have to pay the 22 percent, they will have to pay the surtax and they will also have to pay an additional 6 percent, under existing law, which was added a few years ago to meet this multiple corporation problem.

I have no way of proving that it will not run to $50 million, but I am thoroughly convinced that it will not.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator withhold that request?

Mr. LONG. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WILLIAMS of Delaware. Mr. President, as much as I respect the arguments that have been made, I support the position of the chairman of the committee in opposition to this amendment. The Treasury's estimate is that the amendment involves a $50 million annual revenue loss.

The amendment, in general, would permit a "brother-sister" controlled group of corporations—a group of corporations controlled by five or fewer individuals—to elect multiple surtax exemptions under section 1562 if the aggregate taxable income of the members of the group does not exceed $100,000 for the taxable years which include the December 31 with respect to which the election is in effect. Other controlled groups would be limited to only one surtax exemption. The amendment would apply to taxable years beginning after December 31, 1973.

During the transition period such a group would be subject to the normal transition rules unless it elected to have the special section 1562 rule apply earlier than December 31, 1973.

The Treasury is opposed to the amendment since it would permit some business enterprises to claim multiple surtax exemptions while other enterprises would be limited to only one exemption. It is the position of the House bill, the Senate Finance Committee and the Treasury Department that one business enterprise—whether conducted in multiple corporate form or departmental form—should be allowed only one surtax exemption. There is no logical reason to grant a brother-sister controlled group of corporations more favorable tax treatment than other controlled groups of corporations.

The PRESIDING OFFICER. The question is on the agreeing to the amendment of the Senator from Nebraska (Mr. CURTIS).

The amendment was rejected.

Mr. TALMADGE. Mr. President, I desire to ask a question of the distinguished manager of the bill.

I note that the bill eliminates the continued privilege of claiming multiple surtax exemptions and would phaseout the privilege over a period of 5 years. As the chairman of the committee knows, I have been concerned about the great amount of litigation generated in this

field by the Internal Revenue Service which appears to run counter to congressional intent. Is the chairman similarly concerned in this regard?

Mr. LONG. Mr. President, the provision gradually eliminating multiple surtax exemptions for affiliated corporations will eventually also eliminate difficulties of statutory interpretation that have arisen under sections 269 and 1551 which were enacted, as their legislative history indicate, for the purpose of insuring the denial of surtax exemptions and accumulated earnings credits to corporations organized in connection with the direct or indirect splitup of an existing business.

The Congress was aware, through information introduced in hearings and otherwise, of the practice in several industries of forming a new corporation to engage in business in a separate marketing location, often within the same State or same metropolitan area, not previously served, and of the formation of the new business corporation by the direct or indirect transfer of property consisting of money or credit used to buy from the transferor inventory, fixtures and similar property, and by the parent's guarantee of a lease of property and the furnishing of its organizational experience and business know-how.

Questions have been raised by the Internal Revenue Service whether the statute should be applied to deny such corporations their surtax exemptions. The Congress did not intend section 1551 to be applied to corporations formed in the course of an expansion of a business into a new geographic area or into a different type of operation, but rather intended the establishment of facts within the industry practices previously described to be sufficient, without more, to demonstrate that the securing of a surtax exemption or an accumulated earnings credit was not a major purpose of the organization of such a corporation. The application of section 269 in similar circumstances was understood and intended to be similarly limited for the same reasons.

The courts have applied sections 1551 and 269 in a manner consistent with this intention of Congress and it is expected that the Internal Revenue Service will recognize this limit upon the scope of these sections in its audit activities with respect to taxable years prior to January 1, 1974, when the phaseout of multiple surtax exemptions for all affiliated corporations now provided by this committee will become fully effective.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

PREFERRED STOCK DISTRIBUTION

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

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

The PRESIDING OFFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD reads as follows:

On page 303, strike lines 14 and 15 and insert in lieu thereof the following: "apply to any distribution (or deemed distribution) with respect to preferred stock (including any increase in the conversion ratio of convertible stock) made before January 1, 1991, pursuant to".

Mr. RIBICOFF. Mr. President, this amendment remedies what appears to be an inadvertent error in section 421 of H.R. 13270—relating to stock dividends.

The stock dividend provisions of the bill contain transitional rules for stock issued before the effective date. In general, these transitional rules provide that existing law—and not the new provisions in the bill—will apply to stock dividends paid before 1991 on stock that was outstanding on January 10, 1969, and to certain other stock, including stock received as stock dividends in earlier years.

However, with respect to one kind of stock—preferred stock—the transitional rules apply not to all types of stock dividends but only to dividends accomplished by increasing the conversion ratio of convertible preferred stock. It is my understanding that this provision was drawn to cover all the known cases.

It has come to my attention that some existing preferred stock pays stock dividends directly. My amendment would apply the transitional rules to this case as well as all others.

Section 305(b)(4) of the Internal Revenue Code as added by section 421(a) of the pending tax reform bill, provides that the distribution of stock dividends will be treated as a taxable distribution "if the distribution is with respect to preferred stock, other than an increase in the conversion ratio of convertible preferred stock made solely to take account of a stock dividend or stock split with respect to the stock into which such convertible stock is convertible."

The provision is apparently retroactive in effect, applying to distribution made after January 10, 1969, without reference to the date when the securities were issued—section 421(b)(1) of the bill. Section 421(b)(4) provides transitional rules but does not provide relief for a stock dividend in convertible preferred stock, pursuant to the terms relating to the issuance of such stock which were in effect long before January 10, 1969.

It is not believed that either the Congress or the Treasury intended to give such retroactive effect to the new section 305(b)(4). Thus, the recent amendment of the Treasury regulations under section 305 provides that stock dividends in discharge of preference dividends is to be treated as a taxable distribution—see section 1.305–3. However, the change is not applicable to a distribution "made on or before December 31, 1990, or made with with respect to stock outstanding on September 7, 1968. (T.D. 6990, FR Doc. 69–487, par. 2.)

Likewise, H.R. 13270 as passed by the House of Representatives also provides that the amended section 305 "is not to apply to a distribution of stock—or or rights to acquired stock—made or considered as made before January 1, 1991, with respect to stock outstanding on January 10, 1969." This evidence points conclusively to the fact that amended section 305 would not act retroactively.

Thus, this amendment simply clarifies by making explicit in the bill that new section 305(b)(4) will not apply to a stock dividend of convertible preferred stock made before 1991 pursuant to issuance terms of that stock which were in effect before January 10, 1969.

Mr. President, I want to emphasize that this amendment would not, in any way, change the present tax status of convertible preferred stock dividends. This amendment does not confer new rights, but only clarifies that present rights will not be canceled retroactively.

Mr. TALMADGE. Mr. President, I am informed by the staff that the amendment is all right. However, it is not supposed to affect existing law.

Mr. RIBICOFF. The Senator is correct.

Mr. TALMADGE. With that understanding, and with the approval of the distinguished ranking minority member of the committee, I am delighted to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

REAL ESTATE INVESTMENT TRUST

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Page 222, line 17, after "57(a)(9)" insert "and, in the case of a real estate investment trust, the items of tax preference set forth in sections 57(a)(2) and (3)".

Mr. MILLER. Mr. President, section 442 of the pending bill, relating to the computation of earnings and profits, prevents the benefit of accelerated depreciation from being passed through to the holder of a beneficial interest in a real estate investment trust as a tax-free dividend. Thus, the preference has been taken out of such a distribution to the holder of a beneficial interest, and he should not be taxed on a preference section 442 denies him—and the Finance Committee, I am sure, did not intend to do so. Due to an oversight, the minimum tax provided by the bill treats accelerated depreciation as if it were received as a preference by the holder of a beneficial interest in a real estate investment trust, and is to this intent in conflict with section 442. My amendment eliminates the conflict by removing accelerated depreciation as a preference in the hands of such a holder in section 58 relating to the minimum tax.

Mr. President, I have discussed the

amendment with the technical staff of the committee. They recognize that there was an oversight and that this is purely a technical amendment to reflect the intention of the committee.

I hope that the acting manager of the bill is willing to accept the amendment.

Mr. TALMADGE. Mr. President, I should like to confer with the staff and the ranking minority member of the committee, and 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. TALMADGE. 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. TALMADGE. Mr. President, I have conferred with the ranking minority member of the committee and the staff, and we see no objection to the amendment, based on the explanation of the author of the amendment. On that basis, we are perfectly willing to take it to conference.

Mr. MILLER. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS of Delaware. 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. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNLIMITED CHARITABLE DEDUCTION

Mr. RIBICOFF. 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 proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 189, after line 14, insert the following:

"(g) ELIGIBILITY FOR UNLIMITED CHARITABLE DEDUCTION.—

"(1) Section 170(b)(1)(C) (relating to unlimited charitable deduction for certain individuals), as amended by subsection (a) of this section, is amended by adding at the end thereof the following new sentence: 'In the case of a separate return for the taxable year by a married individual who previously filed a joint return with a former deceased spouse for any of the 10 preceding taxable years, the amount of charitable contributions and taxes paid for any such preceding taxable year, for which a joint return was filed with the former deceased spouse, shall be determined in the same manner as if the taxpayer had not remarried after the death of such former spouse.'

"(2) The amendment made by this subsection shall be applicable to taxable years beginning after December 31, 1957."

Mr. RIBICOFF. Mr. President, this amendment makes a provision to allow a remarried widower who files a separate return to be entitled to the same result that would be obtained if he had not remarried.

The pending tax reform bill gradually phases out the unlimited charitable deduction.

The technical amendment which I propose would remedy an inequity during this phaseout period. It adds an additional sentence to section 170(b)(1)(c) of the Internal Revenue Code.

To file for an unlimited charitable deduction the taxpayer must refer to his tax returns for the previous 10 years. In the case of a taxpayer whose spouse has died, and who now is unmarried and files a separate return, the taxpayer is permitted to refer to his previous joint returns with his deceased spouse.

My amendment would simply allow the same taxpayer who has remarried following the death of his first spouse, but who continues to file a separate return, to use the same procedure of referring to his previous joint returns in filing for the unlimited deduction.

Justice requires that a remarried widower who files a separate return should be entitled to the same result that would be obtained if he had not remarried. There can be no loss of revenue and the single fact of remarriage should not deprive the taxpayer of a just result.

Mr. President, I have discussed this proposal with the Senator from Georgia (Mr. TALMADGE), the Senator from Louisiana (Mr. LONG), the Senator from Delaware (Mr. WILLIAMS), and the staff.

Mr. TALMADGE. Mr. President, the Senator from Delaware (Mr. WILLIAMS) and I have discussed this matter with the staff. We think it has a great deal of merit. I urge that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

The bill is open to further amendment.

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

The PRESIDING OFFICER (Mr. RANDOLPH in the chair). Without objection, it is so ordered.

AMENDMENT NO. 344

Mr. MILLER. Mr. President, I call up my amendment No. 344 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MILLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 546, after line 12, insert the following new section:

"SEC. 915. SPECIAL TAX TREATMENT FOR PROPERTY ACQUIRED WITH FUNDS OBTAINED THROUGH VIOLATION OF CRIMINAL LAWS.

"(a) DENIAL OF CAPITAL GAIN TREATMENT.—"IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding after section 1252 (added by section 516(c) of this Act) the following new section:

" 'SEC. 1253. SALES AND OTHER DISPOSITIONS OF PROPERTY ACQUIRED WITH FUNDS OBTAINED THROUGH VIOLATION OF CRIMINAL LAWS.

" 'In the case of the sale or other disposition of property any part of which was directly or indirectly purchased with, or any part of the financing of the purchase price of which was directly or indirectly secured by, money or other property obtained through violation of the criminal laws of the United States, of any State or possession of the United States, or of the District of Columbia, gain on such sale or disposition shall be treated as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231.'

"(2) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

" 'Sec. 1253. Sales and other dispositions of property acquired with funds obtained through violation of criminal laws.'

"(b) LIMITATION TO STRAIGHT LINE DEPRECIATION.—Section 167 (relating to the depreciation deduction) is amended by inserting after subsection (1) (added by section 441(a) of this Act) the following new subsection:

" '(m) PROPERTY ACQUIRED WITH FUNDS OBTAINED THROUGH VIOLATION OF CRIMINAL LAWS.—In the case of property any part of which was directly or indirectly purchased with, or any part of the financing of the purchase price of which was directly or indirectly secured by, money or other property obtained through violation of the criminal laws of the United States, of any State or possession of the United States, or of the District of Columbia, subsections (b), (j), and (k) shall not apply, and the allowance for depreciation under this section shall be limited to an amount computed under the straight line method.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning on or after January 1, 1969."

Mr. MILLER. Mr. President, the purpose of the amendment is to make it clear that our tax laws, which provide for capital gains treatment benefits and for depreciation in excess of the straight line method of computing depreciation, will be confined to what may be called legitimate taxpayers."

In the case of those who derive their income from violation of criminal laws of the United States, or of any State, territory, or possession of the United States, or of the District of Columbia, my

amendment would not prevent them from acquiring property; but it does provide that if they do acquire property, the benefit of capital gains treatment upon the sale of that property, or the benefit of depreciation in excess of the normal straight line depreciation, may not be obtained by them.

Mr. President, the amendment is really directed at a problem which most of us know exists: The entry into legitimate business of those who are engaged in criminal activities, such as the Mafia, and those who profit from the distribution of narcotics who are using their illegally obtained moneys and property to go into legitimate businesses, and especially the real estate business.

There have been some interesting accounts of the movements of the Mafia into New Jersey land deals. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Post of Friday, November 7, 1969, entitled "IRS Probing Mafia's Jersey Land Deals."

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

IRS PROBING MAFIA'S JERSEY LAND DEALS

(By Jonathan Kwitny)

The Internal Revenue Service is investigating two corporations involved in the lucrative New Jersey land speculation deals of Mafia racketeer Anthony (Little Pussy) Russo.

The IRS Newark office summoned the records of the corporations Oct. 29, a spokesman for the office told The Post yesterday.

The records had been in the hands of the New Jersey State Investigative Commission, which subpenaed them last summer as part of its overall investigation of Mafia affairs in Monmouth County, where Russo makes his home.

The land deals—financed in large part by more than $800,000 in bank loans—were described in a series of articles in The Post last month. Prominent political figures served as attorneys in some of the deals.

NIXON'S ROLE

The IRS spokesman said revenue agents were examining the records as part of a strike force assigned by President Nixon to attack the Mafia in New Jersey.

The IRS' interest in the records came to light last week when Russo's attorney, William Pollack, went to court to try to get the records back from the SIC. The attempt failed when the SIC revealed the records had been taken by revenue agents.

The law firm of Democratic National Committeeman David T. Wilentz represented the Russo interests in several of the transactions.

The Wilentz firm still is representing one of the corporations—Donato-Russo Enterprises Inc.—in a land condemnation case against the New Jersey Transportation Dept.

In the case, two court-appointed commissioners awarded Donato-Russo Enterprises $110,000 for about 1¾ acres of substantially unimproved property.

Both the state and Donato-Russo are appealing the award, according to Wilentz.

EARMARKED FOR HIGHWAY

The price appears to be about three times what Russo paid for the land approximately two years before it was condemned by the state for highway use.

Russo sought the land as part of a larger tract for $160,000. He covered the purchase with a loan from The Edison Bank, of which Wilentz' son and law partner, Warren Wilentz, is a director and legal counsel.

Warren Wilentz, a former county prosecutor, was Democratic nominee for U.S. Senator from New Jersey in 1966.

In elections Tuesday, Middlesex County Democrats suffered their worst defeat in the 42 years since David Wilentz took over as party boss in the county. The county Republican organization made Wilentz' representation of Russo a prime issue in the closing weeks of the campaign.

A DENIAL

In another development, New Jersey Assemblyman Chester Apy denied an earlier story in The Post that he and his law partner gave Donato-Russo a $65,000 interest-free mortgage loan to help finance Russo's land speculation in West Long Branch.

Apy said that he and his law partner, Milton Abramoff, represented Joseph's Enterprises, a corporation that was buying the property from Donato-Russo for $225,000. His law firm had nothing to do with Russo, Apy said.

"I wouldn't recognize Russo if I fell over him," Apy declared.

Apy said that as closing date on the sale of the property by Donato-Russo to Joseph's was drawing near in 1966, the Russo firm asked for an advance of the $65,000 down payment his clients had agreed to make. His clients were willing to advance the money, he said.

"We weren't going to let our clients pay the money over carte blanche," Apy said. "We had to have some security, in the form of the mortgage. Because some of the funds came out of the trust account into which some of their funds had been placed, that mortgage was made out to us as trustees."

"NOT UNCOMMON"

Apy said such a mortgage naming attorneys as trustees was "a not uncommon practice."

Apy said the mortgage bore no interest because the loan was essentially a down payment on the property.

Except for the $65,000 advance, Joseph's obtained the purchase money by mortgaging the property. Two of the mortgages—one securing a $75,000 bank loan—were foreclosed on in 1968 when Joseph's went bankrupt.

"I didn't know who Russo was until early this year," Apy said.

"It would have been one thing to be representing Donato-Russo. But we were on the other side. Our interest was completely opposed to Russo. We were trying to get the best deal we could for our clients," Apy said.

He said neither he nor his law partners ever had represented Russo.

Mr. MILLER. Mr. President, other articles indicate that the syndicates, the narcotics peddlers, and the Mafia are moving into real estate operations in Florida. There is no question that they have moved into other areas of this country.

It seems to me that if we would provide that property acquired by such illegally obtained money could not have depreciation taken on it at all that we might have a problem under the principle of deprivation of property without due process of law. That is why my amendment leaves intact the straight-line method of computing depreciation. Congress has provided for faster depreciation writeoffs and, as a result, capital gains can be increased. This policy was established by Congress to encourage legitimate businessmen to get into real estate activities which would be beneficial to the people of this country. But I am quite sure that Congress did not intend the benefits to go to illegitimate operators, those deriving income in violation of the criminal laws of this country and using it to engage in profitable real estate operations.

My thought is that the amendment would serve a twofold purpose: First, it would discourage people who derive income from criminal activities from getting into the real estate business and, second, if they did get into the real estate business, it would provide our law enforcement officials with an extra weapon to deal with such criminals.

Mr. President, I do not claim any great pride of authorship in drafting the amendment. I can understand that there may be some perfections which may be needed. I regret that I did not have the opportunity to offer the amendment during the deliberations of the committee on the bill, because, frankly, the degree to which the illegal operators have invaded legitimate businesses was not brought to my attention until after the committee had reported the bill to the Senate.

I believe that the amendment is timely. In fact, I would suggest that it is overdue.

I hope that the distinguished Senator in charge of the bill will see fit to accept the amendment.

Mr. TALMADGE. Mr. President, the distinguished majority leader and I have discussed this amendment. We have also discussed it with the staff, and we can see some complexities to its enforcement; however, it has a desirable and laudable motive and, therefore, we are entirely agreeable to taking it to conference where we can take a closer look at it and discuss it with the Internal Revenue Service and others to determine whether it is practicable.

Mr. MILLER. Mr. President, I appreciate that consideration. Let me repeat that I regret very much I did not have the opportunity to compose the amendment and have the full committee consider it. The only reason was that the problem was not brought to my attention until after the committee had considered and reported the bill.

I would also suggest that the Department of Justice, particularly its Criminal and Tax Divisions, would have an interest in this piece of legislation.

Mr. TALMADGE. Mr. President, I urge the Senate to adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was agreed to.

NONFARM INCOME

Mr. HANSEN. Mr. President, I offer two amendments and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk proceeded to read the amendments.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendments will be printed in the RECORD at this point.

The texts of the amendments are as follows:

On page 189, beginning with line 23, strike out all through line 22, page 190, and in lieu thereof insert the following:

"(a) GENERAL RULE.—In the case of a taxpayer engaged in the business of farming and whose nonfarm adjusted gross income (as defined in subsection (e)(1)) exceeds $50,000, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall not exceed the sum of—

"(1) the gross income derived from the business of farming for such taxable year, and

"(2) the higher of (A) $25,000 plus one-half of the amount by which the excess of the aggregate of the deductions attributable to such business over the gross income derived from such business for the taxable year exceeds $25,000, or (B) the amount of the special deductions (as defined in subsection (e)(2)) for the taxable year."

On page 193, line 3, after "gross income" insert the following: "(taxable income, in the case of a corporation)".

On page 190, beginning with line 23, strike out through line 4 on page 191 (relating to special rules on treatment of farm losses) and insert in lieu thereof the following:

"(b) MARRIED INDIVIDUAL AND MEMBERS OF CONTROLLED GROUPS.—

"(1) MARRIED INDIVIDUALS.—In the case of a husband and wife who file a separate return, the $50,000 and $25,000 amounts specified in subsection (a) shall be $25,000 and $12,500, respectively. The preceding sentence shall not apply if the spouse of the taxpayer does not have any income or deductions attributable to the business of farming for the taxable year.

"(2) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)) the $50,000 and $25,000 amounts specified in subsection (a) shall be devided equally among the component members of such group unless all component members consent (at such time and in such manner as the Secretary or his delegate prescribes by regulations) to an apportionment plan providing for an unequal allocation of such amounts."

Mr. HANSEN. Mr. President, I ask unanimous consent that these two amendments be considered en bloc.

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

Mr. HANSEN. Mr. President, let me try to explain the purposes of the amendments.

In the area of farm losses I strongly support the committee's efforts to correct the abuses which exist under the present law.

On page 96, of the committee report, the committee states, "These rules have allowed some high income taxpayers who carry on limited farming activities as a sideline to obtain a substantial tax loss (which does not represent an economic loss) which is then deducted from their high bracket nonfarm income." The report goes on, "In recent years, a growing body of investment advisers have advertised that they would arrange a farm investment for wealthy persons. Emphasis is placed on the fact that after tax dollars may be saved by the use of 'tax losses' from farming operations."

However, the dollar limitations of the committee bill apply only to individuals or estates. Corporations including subchapter S corporations and trusts are not given the benefit of the dollar limitations. Thus, these taxpayers may currently deduct only one-half of their farm loss against nonfarm income.

Mr. President, I represent a State whose economy is in a large measure based on agriculture. A large and increasing number of farm and ranch operations are owned by family corporations. But they are small corporations.

Small family operations often incorporate. They are taxed either under the corporate or subchapter S provisions of the Internal Revenue Code. The reasons they incorporate have nothing to do with tax avoidance. But unless my amendment is adopted, a taxpayer in this situation would be heavily penalized.

How can we say that one rancher who is not incorporated and has a farm loss of $5,000 is able to offset the full farm loss against his nonfarm income, but a rancher living next door who has incorporated his ranch and has a $5,000 farm loss can deduct only one-half of his farm loss—$2,500—against his nonfarm income. These two taxpayers are in the same economic situation.

The picture I have outlined is found throughout rural America. These are not the high-income taxpayers who carry on limited farming activities as a sideline to obtain a substantial tax loss which does not represent an economic loss. They are not wealthy persons. Relief provided by the dollar limitations should be made available to these small operations that are incorporated or held in trust.

The adoption of my amendment would mean that any taxpayer whether it be an individual, estate, trust, or corporation—including subchapter S corporation—would be entitled to deduct his losses in full if his nonfarm income is less than $50,000. If the taxpayer exceeds $50,000 then all the taxpayers would be allowed to deduct a farm loss in full to the extent it does not exceed $25,000 but he is allowed to deduct only one-half of the loss in excess of $25,000. These are the provisions which the committee bill applies to individuals and estates. In equity they should also be applied to corporations and trusts.

I urge my colleagues to support this amendment.

Mr. TALMADGE. Mr. President, the distinguished Senator, the ranking minority member of the committee, and I have conferred. We have also conferred with the members of the staff on the amendments. We think they have merit, and we urge the Senate to adopt them.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc of the Senator from Wyoming.

The amendments were agreed to.

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 190 Leg.]

Aiken	Bellmon	Brooke
Allott	Bennett	Burdick
Baker	Bible	Byrd, W. Va.
Bayh	Boggs	Case
Church	Hruska	Pearson
Cook	Hughes	Pell
Cooper	Inouye	Percy
Cotton	Jackson	Prouty
Cranston	Javits	Proxmire
Curtis	Jordan, N.C.	Randolph
Dodd	Jordan, Idaho	Ribicoff
Dole	Long	Russell
Dominick	Magnuson	Saxbe
Eagleton	Mansfield	Scott
Eastland	Mathias	Smith, Maine
Ervin	McCarthy	Smith, Ill.
Fannin	McClellan	Sparkman
Fong	McGee	Spong
Fulbright	McGovern	Stennis
Goodell	McIntyre	Talmadge
Gore	Metcalf	Thurmond
Gravel	Miller	Tower
Griffin	Mondale	Tydings
Gurney	Montoya	Williams, N.J.
Hansen	Moss	Williams, Del.
Harris	Murphy	Yarborough
Hart	Muskie	Young, N. Dak.
Hartke	Nelson	Young, Ohio
Hatfield	Packwood	
Hollings	Pastore	

The PRESIDING OFFICER. A quorum is present.

CHILD'S INSURANCE BENEFITS

Mr. MOSS. Mr. President, I call up my amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Utah (Mr. Moss) proposes an amendment:

On page 514 after line 6 insert section 903:

"(a) section 152 of the Internal Revenue Code of 1954 (relating to definition of dependent) is amended by adding at the end thereof the following new subsection:

"'(f) CHILD'S INSURANCE BENEFITS PAID UNDER SOCIAL SECURITY ACT.—For purposes of subsection (a), amounts received by an individual as a child's insurance benefit under section 202(d) of the Social Security Act shall not be taken into account in determining whether such individual received more than half of his support from the taxpayer.'

"(b) The amendment made by subsection (a) shall apply to taxable years ending on or after the date of the enactment of this Act."

Mr. MOSS. Mr. President, the amendment is not numbered. It is a measure that was pending to the social security bill. I include it here because it logically belongs here, I believe.

This has to do with the income that a child is entitled to by reason of a social security benefit. A child's social security benefits are considered to be the child's own contribution to his support. And in a lower income family, that may cover a substantial part of that child's expenses.

That child's mother or father must, therefore, keep detailed records of expenditures for each child in order to claim dependency. And this is sometimes very difficult to do.

So, in order to help widows and widowers in these circumstances, I have offered an amendment which would allow the taxpayer to disregard the child's benefit payments as far as determining whether the child could be claimed as a dependent.

The impact of the amendment is not great. And the amount of money involved is not great. However, it does impose a very onerous burden on many families.

This is nearly always the circumstance where a widow or widower is involved. The only way a child would receive benefits under social security would be to have

a parent die and therefore be entitled to some social security.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MOSS. I yield.

Mr. CURTIS. Is the Senator's amendment printed?

Mr. MOSS. Yes, it is printed and is at the desk. I do not have it printed and distributed, no.

Mr. CURTIS. It is in writing, but it is not printed?

Mr. MOSS. It was printed as a bill that I had introduced earlier, and now that language is stated as a proposed section in the tax bill.

Mr. CURTIS. Will the Senator state again just what his amendment would do?

Mr. GRIFFIN. Mr. President, may we have an order?

The PRESIDING OFFICER (Mr. MATHIAS in the chair). Senators will take their seats. The Senate will be in order.

Mr. MOSS. This amendment provides that when a child is entitled to some social security benefit of a deceased mother or father, the taxpayer with whom he lives is relieved of the burden of keeping an accounting of all the various expenses that go into maintaining that child, and the taxpayer does not have to count the social security as against it.

Under present circumstances, the taxpayer must prove that he contributed 51 percent or more to the support of the child, in order to take the child as a dependent on his tax return. This amendment would simply relieve him of that burden as to the money the child is getting as a social security benefit.

The amount involved is not great. The problem it poses for many rather poor families is great, and I have received many letters about it over a considerable period of time.

The purpose is to relieve the taxpayer of accounting for the social security payment that comes to the child, in determining whether or not the taxpayer contributed 51 percent. As we all know, it is difficult, anyway, to account for exactly what it costs to support a child—how much of the rental of the house, how much of the food that is consumed, the cost of his clothes, the cost of his toys, and all the other things. This would simplify the procedure. Therefore, I think it is a meritorious amendment, and I ask that it be adopted.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. MOSS. I yield.

Mr. CURTIS. Can the Senator give us an idea of the range in dollars of benefits paid to children? I take it that this would be benefits paid by reason of the death of a parent.

Mr. MOSS. That is correct. This is the dependent's benefit that comes because of the death of a parent.

Mr. CURTIS. Is it not true that the benefit is paid to the surviving parent?

Mr. MOSS. If the child has a guardian and he is a minor, so far as actual accounting for it is concerned, there is a guardian. But the amount involved is relatively small for each child. The child might get $50 or $40 or some such amount per month.

What I am trying to do is to get relief from a rather onerous tax return burden.

Mr. CURTIS. I wish the Senator would refresh my mind as to how high a child's benefit goes. The Senator from Nebraska does not have that figure before him. It is conceivable that many of these benefits are small and that the taxpayer would be saved from an onerous accounting system. On the other hand, it may be that the benefit is sufficient so that totally it pays or nearly pays for the support of the child. I do not know, but I shall find out.

Mr. PASTORE. Mr. President, will the Senator yield for a question?

Mr. MOSS. I yield?

Mr. PASTORE. Is it not a fact that the present procedure, more than anything else, amounts to a nuisance? So far as dollars and cents are concerned, this is not the significant issue nor is it the question here. Under the present law, any time a child receives any benefit—and rarely will it exceed $600 a year—perforce, the individual who claims that dependency must show by documentary proof that he has contributed more than 51 percent to that child's sustenance during that year. Is that correct.

Mr. MOSS. That is correct.

Mr. PASTORE. How can one measure the water that the child drank, the electricity he used? This is impossible. It is merely a nuisance; that is all it amounts to. I am surprised that it is even in the law.

Mr. MOSS. This happens very frequently in low-income families, where the nuisance is compounded in trying to compute the amount.

Mr. GORE. Mr. President, the committee feels duty bound to oppose the proposed amendment.

The claiming of a foster child as a dependent is a question that has given a great deal of concern to the Internal Revenue Service and the Department of the Treasury. It is true that if a foster parent claims a child for a dependent, consideration must be given to the social security benefits which that child receives. One simple way for the foster parent to avoid the necessity of keeping the records and making the records available is not to claim the dependency.

We argued a good deal about the level of personal exemption. Perhaps we did not make it high enough. But if this amendment is adopted, it would be possible for a nonblood guardian to claim one, two, three, or several children as dependents, even though he might make no more than a $1 contribution to their support.

So, agreed that the present system is vexatious to some people, nevertheless, the possibility of a considerable inequity would be created. The committee feels that if one claims a personal exemption for a dependency, that dependency should be reduced by the contribution to that child's upkeep that comes from social security sources. It might be that the social security would be as much as $1,000 a year. Yet, the foster parent, by contributing $1, could claim an exemption of $800 from his own income.

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

Mr. GORE. I yield.

Mr. CURTIS. Mr. President, there may be some cases in which some relief ought to be granted; but I think this is a matter that should be considered when social security is considered and hearings are held. It could well be that there are some situations in which what the distinguished Senator from Utah is trying to do ought to be done. But a number of factors are involved here.

In the first place, social security income for the purpose of taxation is not income. It is free of tax and has been all through the years.

I do not know what the effect of this amendment would be in case the surviving parent is left with three or four youngsters, all of whom are drawing benefits.

I would be very reluctant to oppose the amendment, for humanitarian reasons. I think that a child who has lost a parent should have every break there is, but I am thoroughly convinced that to do justice in this situation the matter should be explored in hearings and presented when we have social security legislation.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. GORE. I shall yield in just a moment.

Mr. President, I join the Senator from Nebraska in the views he has just expressed, and I join him also in suggesting to the able author of the amendment that when we have hearings on the social security bill the committee would carefully go into the matter.

Mr. CURTIS. I would be willing to make that a pledge.

Mr. WILLIAMS of Delaware. Mr. President, the Senator from Tennessee and the Senator from Nebraska have just expressed the thought I was going to make. I think, as the Senator from Rhode Island has pointed out, there is an inequity here that needs to be dealt with, but I am afraid the proposal before us could be subject to possible abuse.

I think with proper committee hearings and study consideration could be given to this matter. I would join in saying that as a member of the committee we will give it study and try to work out some solution.

The Senator from Tennessee points out that it would be possible, where someone was receiving $800 to $1,000 a year in benefits to support the child, for that person to contribute as little as $1 or $5 for the support of the child and still claim the child as an exemption. Perhaps that is not the intention of the Senator from Utah. I think there probably is a way to prevent that and to achieve the objective he seeks to achieve.

Mr. President, I join the chairman in a pledge that we will give this matter our attention and try to come up with a solution.

Mr. PASTORE. Mr. President, we are dealing with a bill that is loaded with favoritism. There is no question about it. One who has exemplified that more dramatically than anybody else on the floor of the Senate has been the Senator from Tennessee. Look how picayune they are in this situation. You are saying if a widow is left with three children and she collects social security benefits for each one, just a small amount at best—and we

are talking about a widow—a widow, before she claims a child as a dependent, if she has a little bit of a job on the side earning a little income, because her husband left her and she is supporting the three young children, has to document the fact that she contributed more than 50 percent to support them. We are picayune.

Foster parents are paid by the State. They cannot claim the benefits because they are being paid by the State. We are talking about widows. I am familiar with a dozen situations in my State where widows were left penniless, where they might have a little job in a department store and get $50 a month for each child; but at the end of the year they would have to document the fact that they contributed more than 50 percent.

We have all of this dillydallying about adjusting this matter when we are loading the bill with a 23-percent oil depletion allowance, benefits for this group, benefits for that group; and, yet, we will not take care of that widow this afternoon. I am ashamed, really ashamed.

Mr. GORE. Mr. President, we are not talking about widows here, although that is a favorite subject and I am very sympathetic to it.

Suppose this widow remarries and she has three, four, or five children, and that from social security there is a considerable contribution for their upkeep. This measure would set up the legal possibility that a foster parent who has not legally adopted the children——

Mr. PASTORE. But who is supporting them.

Mr. GORE (continuing). Might be supporting them to the extent of $1 a year——

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

Mr. GORE. No; I will not yield just now.

Mr. PASTORE. Very well.

Mr. GORE. The Senator is talking about widows. I am talking about someone who is married. The former widow——

Mr. PASTORE. I will answer that question.

Mr. GORE. The Senator said this is picayune. It is not picayune.

This is a principle which is proposed to be established in a tax law making it possible for one to claim a personal exemption, the full exemption for the support of a child when, as a matter of fact, the person might actually be making only a miniscule contribution toward the support of the child.

This is not a large item; no large amount is involved, and I do not wish to take a great amount of time to debate it. However, it is a principle that is wrong. Let the committee, when it has hearings on the social security, examine this matter carefully and then recommend a decision to the Senate.

Mr. MOSS and Mr. PASTORE addressed the Chair.

Mr. GORE. Mr. President, I yield first to the author of the amendment.

Mr. MOSS. Mr. President, I think the summary of this proposal which has been given by the able Senator from Rhode Island puts it in perspective. What we are talking about is a relatively small amount of money and a relatively small group of people. Generally, they are people of limited income.

I supported the able Senator from Tennessee when he fought on the floor——

Mr. PASTORE. That is right.

Mr. MOSS (continuing). To increase the personal exemption. A person may claim from $600 to $800.

Mr. PASTORE. Or $1,000.

Mr. GORE. It should be $1,000.

Mr. COOK. Mr. President, may we have order?

Mr. MOSS. We have $800. Now we want to turn around and say that in order to claim a child, a dependent child who has a small amount coming under social security from a deceased parent, we are going to force that person to set up an accounting system whereby he can show the amount he spends in supporting that child is greater than the amount the child got from social security.

Mr. GORE. Mr. President, I wish to say to the able Senator that I do not want to debate this matter for a long time, but the Senator talks about a small amount. The amount can be $109 per month per child. As a matter of fact, on the average today the children of a deceased worker receive $71 a month. Is the Senate going to say that $109 a month can be ignored and that even though the foster parent makes but a miniscule contribution to the upkeep of that child he can still claim $800 as an exemption for each child? I say in principle that is wrong.

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

Mr. GORE. I had promised to yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, what concerns me has a great bearing on what the Senator from Utah proposes. The maximum amount one can receive under social security for a child is $109 a month; and that is $1,308 a year. The average payment made for a child under social security is $71 a month, which comes to $852 a year. It is obvious if $71 is the average, many, many persons are below the $71 a month.

Mr. COTTON. Mr. President, may we have order? I am trying to listen to the Senator.

The PRESIDING OFFICER (Mr. MATHIAS in the chair). The Senate will be in order.

Mr. RIBICOFF. Mr. President, I think all of us realize it takes more than $852 a year to support a child, and a parent or foster parent would have to make a substantial contribution.

I would hope the committee would take this amendment to consider it in conference. But I think I can sympathize with the Senator from Tennessee because we are getting ourselves into the same position we did when we discussed the Byrd-Mansfield amendment. The Senate is going to have to wrestle with a complete review of the Social Security System. It seems that will take place, as far as this body is concerned, sometime next May or June. I know that members of the Committee on Finance will go into this matter thoroughly. However, I do wish to say there is a great deal of merit in what the Senator from Utah advocates. To my knowledge this is the first time it has been called to the attention of the Senate. It has been overlooked and consideration should be given to what the Senator from Utah advocates because it has much merit.

Mr. MOSS. I thank the Senator.

Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I yield.

Mr. MOSS. Mr. President, I simply want to ask this question. What is the poverty level now that has been set as the official poverty level in this country below which the family income should not fall?

Mr. GORE. I believe, for a family of 4, it is $3,600.

Mr. MOSS. If we compare the $71 average that the children get under social security, we can see that no one will be lifted out of the poverty level by having the contribution to a child come into the family income. The onerous obligation of itemizing and trying to justify all the expenses of a child will not be worth the amount of money involved. Therefore, I think we should have this provision in the tax bill, to say that that may be ignored in filling out a tax return for a family whose mother is usually a widow.

Mr. GORE. Mr. President, I wish to close by saying that I did not think and do not now think that an $800 exemption is sufficient. I was happy that the Senate supported that much, however inadequate it is. But here is an amendment offered to make a special provision. It would be the only place in the law I know of in which we would allow a taxpayer to claim full exemption for the support of a child when, as a matter of fact, the degree of support could be minuscule. I think this is a bad principle, but I do not wish to take the time of the Senate further. Let the Senate work its will.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. Moss).

As many as favor the amendment will say "aye."

As many as oppose the amendment will say "no."

The "noes" appear to have it.

Mr. PASTORE. Mr. President, I call for a division.

The PRESIDING OFFICER. A division is called for. As many as favor the amendment will rise and stand until counted. (After a pause.) Those who oppose the amendment will rise and stand until counted.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

Mr. COOK. Mr. President, a parliamentary inquiry.

Mr. PASTORE. Mr. President——

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

Mr. WILLIAMS of Delaware. Mr. President, regular order.

Mr. ALLOTT. Regular order, Mr. President.

The PRESIDING OFFICER. Does the Senator from Rhode Island withdraw his request for the call of a quorum?

Mr. PASTORE. Mr. President, temporarily, I do. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays on this amendment having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Virginia (Mr. BYRD), the Senator from Florida (Mr. HOLLAND), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are absent on official business.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER) would vote "nay."

On this vote, the Senator from Nevada (Mr. CANNON) is paired with the Senator from Florida (Mr. HOLLAND). If present and voting, the Senator from Nevada would vote "yea" and the Senator from Florida would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. DOMINICK), and the Senator from Arizona (Mr. GOLDWATER) would each vote "nay."

The result was announced—yeas 46, nays 41, as follows:

[No. 191 Leg.]

YEAS—46

Bayh	Hatfield	Muskie
Bible	Hollings	Nelson
Brooke	Hughes	Pastore
Burdick	Inouye	Pell
Byrd, W. Va.	Jackson	Prouty
Church	Javits	Proxmire
Cotton	Magnuson	Randolph
Cranston	McClellan	Ribicoff
Dodd	McGee	Sparkman
Eagleton	McGovern	Spong
Fong	McIntyre	Tydings
Goodell	Metcalf	Williams, N.J.
Gravel	Mondale	Yarborough
Harris	Montoya	Young, Ohio
Hart	Moss	
Hartke	Murphy	

NAYS—41

Aiken	Fulbright	Pearson
Allott	Gore	Percy
Baker	Griffin	Russell
Bellmon	Gurney	Saxbe
Bennett	Hansen	Scott
Boggs	Hruska	Smith, Maine
Case	Jordan, N.C.	Smith, Ill.
Cook	Jordan, Idaho	Stennis
Cooper	Long	Talmadge
Curtis	Mansfield	Thurmond
Dole	Mathias	Tower
Eastland	McCarthy	Williams, Del.
Ervin	Miller	Young, N. Dak.
Fannin	Packwood	

NOT VOTING—13

Allen	Ellender	Mundt
Anderson	Goldwater	Schweiker
Byrd, Va.	Holland	Stevens
Cannon	Kennedy	Symington
Dominick		

So Mr. Moss' amendment was agreed to.

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOSS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 303

Mr. FANNIN. Mr. President, I call up my amendment No. 303.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. FANNIN. 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:

"SEC. 122. POLITICAL ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

"(a) DENIAL OF EXEMPTION.—Section 501 (relating to exemptions from tax) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"(e) PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—No organization described in subsection (c) or (d) shall be exempt from taxation under subsection (a) for any taxable year in which any part of its income or of the amounts received for its support (including, in the case of a membership organization, dues, assessments, fees, or other charges imposed on members) is used, directly or indirectly—

"(1) to support or oppose any candidate for public office,

"(2) to support or oppose any political party, or

"(3) to carry on any voter registration."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

Mr. FANNIN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

STRIKING A BETTER BALANCE

Mr. FANNIN. Mr. President, this amendment in spite of all the anguished cries of big labor leaders, is an eminently fair and just proposal. Every reaction I have received to this amendment, other than those who are tied to special interest groups, has been favorable.

The rank and file of major labor organizations as well as other membership organizations favor this approach, I believe, and were it not for the intimidation and coercion that exists in these situations, I believe those in charge would hardly risk a free and open referendum within their own ranks on such a proposition.

Mr. President, in a speech here in Washington on July 25, 1954, our late President, Dwight D. Eisenhower, said:

Free government makes as its cornerstone the concept, or the idea, that men are equal, they are equal before the law, they have equal rights and equal opportunities in the governments maintained to protect them.

It is in pursuit of this concept, Mr. President, that I have introduced this amendment.

It has been estimated that over a hundred million dollars were spent by labor unions in the last national elections, not including wages and salaries of those in everyday activities that are truly involved in political endeavors. One of the things which makes this practice so iniquitous is that much of this money is collected by the union leaders under arrangements which give a man no choice but to belong to a union. Then his money, taken from him by the force of law, may be and often is, spent contrary to the political desires of the member. I would be just as opposed to any business organization utilizing dues or assessments in this manner.

It is not the purpose of this amendment, Mr. President, to penalize one group at the expense of another. The purpose plainly and simply is to strike a better balance than we have had heretofore in these matters. Very little investigation is required, Mr. President, to discover that under the interpretation of section 501(c) of the Internal Revenue Code, union leaders have enjoyed an immunity to the "no politics" rule that has been applied to other tax-exempt organizations in the civic, fraternal, business, and professional fields.

There are those, Mr. President, who charge me with antilabor bias in introducing this legislation. It is simply not true, it has not been true, and I trust that it never shall be true. This amendment is protective of the members' rights.

Our country is blessed with the finest in working men and women the world has ever known. They are better trained, more highly skilled, and in many instances more highly motivated than any other major industrial nation in the world. However, Mr. President, there are those who are leaders in the labor movement, and I do not include them all, who are bent on removing incentive; committed to the dissolution of those qualities that made America great because it was built by great people. They are the greedy ones who no longer regard a good day's work for a good day's pay as a proper goal to be attained.

To those who are critical of me, and who would betray the labor movement into the sloughs of lethargy and sloth, I would recall the words of the great-grandfather of the labor movement in America, Samuel Gompers.

Sixty-three years ago, Mr. Gompers recognizing the coming dangers if great political power became concentrated in the hands of a few men, said:

It is doubtful to my mind if the contributions and expenditures of vast sums of money in the nominations and elections for our public offices can continue to increase without endangering the endurance of our Republic in its purity and in its essence . . . the necessity for some law upon the subject is patent to every man who hopes for the maintenance of the institutions under which we live.

Mr. President, we have had a "law upon the subject" to use the words of Mr. Gompers; but it has not prevented the danger which he saw approaching from

coming about. I refer to an article on the Federal Corrupt Practices Act which I inserted in the RECORD on December 1, 1969, at page 36199. This article from the highly respected Congressional Quarterly publication indicates that not only does that law have so many loopholes as to be ineffective, but even the loose provisions of the existing law are not enforced. I dare say there is no single group in our Nation able to wield so powerful a weapon as the quantity of money and help which labor officials can pour into national and local election campaigns.

The history of labor organizations using money from their general treasuries to contribute to political campaigns, or to pay the salaries of campaign workers donated by the unions is well established. The allegation is broadly made by labor leaders that all of their contributions are voluntary, but such a statement is not seriously defended in detail.

As just one example, I cite the oral arguments of one Joseph Rauh, formerly head of the Americans for Democratic Action, who argued a case for the United Auto Workers before the Supreme Court of the United States:

Mr. RAUH. We have never had the type of funds on voluntary dollars—

Justice REED. You can't get as much from voluntary dollars as you can from dues?

Mr. RAUH. Well, sir, a union man thinks he has paid, when he has paid his dues, he thinks he has paid for bargaining, for legislation, and for political activity. He doesn't feel he should pay a second time for political activity. That is why it is so hard to raise voluntary contributions . . . When he pays his dues, he has paid for his political action. (Cong. Rec. 10/27/69 pg. 31551ff.)

Just last year the AFL–CIO assessed its members a nickel per member to amass an additional election campaign fund of $850,000; all of it without paying a penny in taxes. Just think of the magnitude of money available through assessment privileges. We could possibly cut union dues in half by this amendment.

Union tax free dues build up a fantastic wealth. The best estimates place combined union income at around $75 million per month. Total union wealth is estimated at more than $4 billion. Union businesses are legion in the multimillion-dollar range and the income from hotels, motels, banks, transit lines, apartment and office buildings, and life insurance firms flows into union coffers free of tax levy.

In the October 11, 1969, edition of the AFL–CIO News, Mr. President, I quote from an article on page 20 headlined "Labor Renews Crusade for Tax Justice." One of the three major goals listed in the leading resolution reads as follows: "The elimination of the loopholes of special tax privilege for wealthy families and businesses." Notably absent from the resolution is the plugging of the special tax loopholes for wealthy unions.

AFL–CIO President George Meany addressed the Atlantic City crowd with these words, and I quote from the AFL–CIO paper:

Washington is crowded with well-heeled lobbyists who represent every group that has a selfish interest in perpetuating the special tax preference that they now enjoy.

That was a very candid statement of Mr. Meany, especially in light of his statement to an AFL–CIO gathering on August 28, 1969, in which he said:

I think frankly, we have the most effective lobby in Washington. We don't go bragging about our lobby. We don't brag that we are lobbyists. We don't talk about it. But actually, we are lobbyists.

Mr. President, this is an outstanding display of candor on the part of Mr. Meany. I have no hesitancy in attesting to the effectiveness of the union lobbyists.

There have been some, Mr. President, who have accused me of singling out unions for special punitive legislation. That is not true.

The amendment before you applies to all organizations presently designated tax exempt under the Internal Revenue Code. Everyone is treated exactly alike before the law. That is the fair and equitable way. It has been said by union spokesmen that there is no measure of justice in this amendment. I am told that in telegrams to various Senators, labor councils across the country have reminded us of the tax-exempt status of such organizations as the National Association of Manufacturers, the American Medical Association, the chambers of commerce, National Right To Work Committee, and other similar groups. Mr. President, this amendment does apply to those and all similar organizations. This is not favoritism, it is fairness, and no legislator can in conscience vote on any other basis.

The principle with which we are here concerned, Mr. President, is fairly straightforward. Shall an organization, either fraternal, professional, religious, labor, or other, be in effect subsidized by the taxpaying public to work in opposition to the interests of a significant portion of that public?

Certainly everyone in America is free, or should be, to contribute to the political candidate of his choice, and to work on his behalf as a private citizen. The difficulty arises when such activity is permitted, even encouraged through the use of tax-exempt funds. An organization which is exempt from taxation is by its specialized status, shifting the burden to the remaining tax base. We here are simply saying that if you wish to engage in political activity of the type so described—support or opposition of candidates and parties and voter registration—that you then pay taxes like everyone else who engages in such activity.

May I make it perfectly clear, Mr. President, that we are not seeking to restrict the free expression of voter responsibility and patriotic efforts. This should certainly be a part of every civic minded organization's program. But actual voter registration should be, I believe, primarily the responsibility of the political parties. The Senate Finance Committee has expressed its reservations about the motivations behind many voter registration drives as being politically motivated—and as such, they should not be carried out with tax-exempt money.

Now a word about free speech, or expression of opinion by unionists. My amendment would not restrict in any way the right of an individual to express himself as far as politics are concerned in his individual views. If a union official wishes to be for or against a certain political candidate as a private matter, that is his business, his right, and he may certainly employ it. If, on the other hand, he wishes to use his official position as a union official to coerce other members of his union into voting for or against a candidate or party, then I believe he is jeopardizing the tax-exempt status of the union in the same fashion as a chamber of commerce president; acting in his official capacity would be threatening the tax-exempt status of his chamber by making official pronouncements in favor or in opposition to a candidate.

Mr. President, I close as I began with the words of our late and beloved President, Dwight Eisenhower. They enunciate the principle to which my amendment is dedicated. I trust we shall be true to them:

Free government makes as its cornerstone the concept, or the idea, that men are equal, they are equal before the law, they have equal rights and equal opportunities in the governments maintained to protect them.

Mr. President, I ask that we strike a better balance toward the achievement of those equal rights, and trust adoption of amendment No. 303 will be approved.

Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I thank my distinguished friend, the Senator from Arizona.

Mr. President, I support the Senator's amendment No. 303 to the tax reform bill. I would like to congratulate the distinguished Senator from Arizona for the excellent presentation he has delivered on his proposal.

Mr. President, during the course of debate on H.R. 13270, this body has been mainly concerned with providing more equity in our federal tax structure. The Congress has been concerned with closing loopholes in our tax structure. Individuals in the Congress have aimed their attack at wealthy individuals, corporations and industries. Like the vast majority of legislators, I am also very concerned about the establishment of an equitable and sound tax structure. The correction of the inequities of our tax system is a primary objective of this body, and I will continue to support those measures which I feel meet this objective.

As the Senator has already stated, supporters of this amendment have been attacked by special interests as being antilabor. This is not the case. Amendment No. 303 would require all tax-exempt organizations to refrain from political activity, including voter registration, or lose their tax-exempt status. In essence, all that this amendment does is establish a sense of fair play wth regard to the various tax-exempt organizations. I am sure that labor union officials would not want businesses and corporations to do what unions could not do. As the law stands now, unions have tax-exempt

status, whereas other tax-exempt organizations must refrain from partisan political activity or lose their tax-exempt status.

It is an obvious fact that union members contribute to a political candidate or party despite the fact that they will eventually oppose that same candidate or party on election day. Research studies have shown that union members are increasingly deviating from the wishes of union officials with respect to various candidates endorsed by the union. This is a natural tendency due to the increased political awareness and independence of the American electorate. Thus, in many cases, union members financially contribute to political candidates regardless of their own individual beliefs. With this in mind, I feel that it is safe to say that this amendment is a positive proposal that benefits labor unions as a whole; that is, in the sense that it grants the individual union member his constitutional freedom of choice.

Mr. President, this amendment attempts to provide for a just and fair balance with regard to tax-exempt organizations.

Therefore, I urge the Senate to adopt this amendment as introduced.

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

I agree with the Senator. This would not limit the freedom of speech of anyone nor be a burden to any organization. It would not violate the freedom of speech of a union or individuals nor limit the freedom of speech of anyone.

If we consider the equity of it—I have had it very carefully checked—I am sure this would cover what we are talking about in the amendment. It would not apply to any organizations that are not tax exempt. If, for instance, they carry on different programs, they can continue to carry on those programs as long as the money that they utilize is voluntarily given to them.

I have supported the League of Women Voters. I have written checks for them. I think it is a good program. At the same time, I feel the greatest benefit that can accrue to a political party is for the members of that party to carry on voter registration.

I could give many examples. I can give my State as an example and what has taken place there. However, what other activity will create better citizens and a better understanding of the voter problem? What would contribute more than having the people who want to enter into political activities help a candidate or a party? If they say to a candidate, "What can I do to help you? What work can I do to help my party?" My advice would be for them to get involved in voter registration. There is not anything that would be more beneficial to them.

We do not need to have paid people going out to engage in this activity. We have plenty of people who can enter into voter registration work.

I think it is shameful that the people are not patriotic enough to move forward with voter registration on their own. Why should they have to pay people to go out and be good citizens? I think it is sinful that people think they must be paid to help their party.

It is certainly an unsound principle. I oppose that type of operation.

At the same time, I will certainly contribute to an organization. And I do not expect to take a tax deduction on the contribution I make.

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

Mr. FANNIN. I yield.

Mr. TOWER. Mr. President, the Senator's amendment would not proscribe legitimate volunteer political activity on the part of trade union members.

Mr. FANNIN. No. I think it would encourage it. At the present time people sit back and say, "Let John do it, or let someone else do it."

This would encourage such activity and make political parties more conscious of this fact, and it would greatly interest people in politics.

Mr. TOWER. It would not discourage individual union members from contributing to the party or candidate of his choice.

Mr. FANNIN. He can do whatever he wants to do. The very wording of the amendment indicates that it is not only not restrictive, but it would also greatly encourage people to work for their political parties.

I think rather than discourage or hamper voter registration, it would encourage it.

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

Mr. FANNIN. I yield.

Mr. PACKWOOD. Mr. President, the Senator mentioned the League of Women Voters and their activity in voter registration. Do I correctly understand the Senator to mean that his amendment would not apply to voter registration carried on by the League of Women Voters?

Mr. FANNIN. As long as the money was voluntarily given, it would not affect that activity. If the money being spent was tax-exempt money, it would.

Mr. PACKWOOD. Mr. President, no one has to join the League of Women Voters or the Chamber of Commerce. However, if we had a situation where the League of Women Voters was using their dues for voter registration, would that be proscribed by the amendment?

Mr. FANNIN. No. Mr. President, I intend to encourage rather than discourage this type of activity. I feel, as I have said, that we would encourage people to become more involved and not to get involved in something because they would be paid for their work.

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

Mr. FANNIN. I yield.

Mr. TOWER. Mr. President, voter registration is a congeneric activity of the League of Women Voters. They are set up for that purpose. They pay their dues voluntarily. They know what their organization does. In that sense, it would be excluded by the amendment. However, voter registration is not a congeneric activity of a trade union.

Mr. FANNIN. The whole matter, so far as I am concerned, is one of encouraging people to become involved in politics. This amendment would not discourage anyone. It would not discourage freedom of speech. It just means that people who are paid by tax-exempt money could not enter into these activities. They could enter into it if they were not representing the organization.

The limitations involved in this amendment have been overemphasized. It is very simple, and it pertains to exactly what it says. It says:

PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—No organization described in subsection (c) or (d) shall be exempt from taxation under subsection (a) for any taxable year in which any part of its income or of the amounts received for its support (including, in the case of a membership organization, dues, assessments, fees, or other charges imposed on members) is used, directly or indirectly—

When anyone says that "directly or indirectly" is going to cause difficulty, I say that he is being misled. I had this checked very carefully. I talked with several of the distinguished Senators on the other side of the aisle, and they brought this up. I had it checked out yesterday and today. I have gone to extremes to find out what would be involved. It certainly would not affect the work that we are talking about in getting voter registration, other than if tax exempt money is utilized. That is the only restriction we have.

What this amendment applies to is very clear: "to support or oppose any political party, or to carry on any voter registration."

This would apply just to tax exempt organizations that are involved. It would be illegal, under my amendment. I ask unanimous consent to have printed at this point in the RECORD a list of the 17 categories of organizations that are included in subchapter F, "Exempt Organizations."

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

SUBCHAPTER F.—EXEMPT ORGANIZATIONS

Part
I. General rule.
II. Taxation of business income of certain exempt organizations.
III. Farmers' Cooperatives.
IV. Shipowners' protection and indemnity associations.

PART I.—GENERAL RULE

Sec.
501. Exemption from tax on corporations, certain trusts, etc.
502. Feeder organizations.
503. Requirements for exemption.
504. Denial of exemption.

§ 501. Exemption from tax on corporations, certain trusts, etc.

(a) EXEMPTION FROM TAXATION.—An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502, 503, or 504.

(b) TAX ON UNRELATED BUSINESS INCOME.—An organization exempt from taxation under subsection (a) shall be subject to tax to the extent provided in part II of this subchapter (relating to tax on unrelated income), but notwithstanding part II, shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

(c) LIST OF EXEMPT ORGANIZATIONS.—The

following organizations are referred to in subsection (a);

(1) Corporations organized under Act of Congress, if such corporations are instrumentalities of the United States and if, under such Act, as amended and supplemented, such corporations are exempt from Federal income taxes.

(2) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt under this section.

(3) Corporations, and any community chest fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(5) Labor, agricultural, or horticultural organizations.

(6) Business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(7) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

(8) Fraternal beneficiary societies, orders, or associations—

(A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

(9) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association of their dependents, if—

(A) no part of their net earning inures (other than through such payments) to the benefit of any private shareholder or individual, and

(B) 85 percent or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses.

(10) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or their designated beneficiaries if—

(A) admission to membership in such association is limited to individuals who are officers or employees of the United States Government, and

(B) no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual.

(11) Teachers' retirement fund associations of a purely local character if—

(A) no part of their net earnings inures (other than through payment of retirement benefits) to the benefit of any private shareholder or individual, and

(B) the income consists solely of amounts received from public taxation, amounts received from assessments on the teaching salaries of members, and income in respect of investments.

(12) Benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations; but only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

(13) Cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit; and any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, no part of the net earnings of which inures to the bent of any private shareholder or individual.

(14) Credit unions without capital stock organized and operated for mutual purposes and without profit; and corporations or associations without capital stock organized before September 1, 1957, and operated for mutual purposes and without profit for the purpose of providing reserve funds for, and insurance of, shares or deposits in—

(A) domestic building and loan associations,

(B) cooperative banks without capital stock organized and operated for mutual purposes and without profit, or

(C) mutual savings banks not having capital stock represented by shares.

(15) Mutual insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the gross amount received during the taxable year from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) does not exceed $150,000.

(16) Corporations organized by an association subject to part III of this subchapter or members thereof, for the purpose of financing the ordinary crop operations of such members or other producers, and operated in conjunction with such association. Exemption shall not be denied any such corporation because it has capital stock, if the dividend rate of such stock is fixed at not to exceed the legal rate of interest in the State of incorporation or 8 percent per annum, whichever is greater, on the value of the consideration for which the stock was issued, and if substantially all such stock (other than nonvoting preferred stock, the owners of which are not entitled or permitted to participate, directly or indirectly, in the profits of the corporation, on dissolution or otherwise, beyond the fixed dividends) is owned by such association, or members thereof; nor shall exemption be denied any such corporation because there is accumulated and maintained by it a reserve required by State law or a reasonable reserve for any necessary purpose.

(17)(A) A trust or trusts forming part of a plan providing for the payment of supplemental unemployment compensation benefits, if—

(i) under the plan, it is impossible, at any time prior to the satisfaction of all liabilities, with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of supplemental unemployment compensation benefits.

(ii) such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

(iii) such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. A plan shall not be considered discriminatory within the meaning of this clause merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

(B) In determining whether a plan meets the requirements of subparagraph (A), any benefits provided under any other plan shall not be taken into consideration, except that a plan shall not be considered discriminatory—

(i) merely because the benefits under the plan which are first determined in a nondiscriminatory manner within the meaning of subparagraph (A) are then reduced by any sick, accident, or unemployment compensation benefits received under State or Federal law (or reduced by a portion of such benefits if determined in a nondiscriminatory manner), or

(ii) merely because the plan provides only for employees who are not eligible to receive sick, accident, or unemployment compensation benefits under State or Federal law the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such laws if such employees were eligible for such benefits, or

(iii) merely because the plan provides only for employees who are not eligible under another plan (which meets the requirements of subparagraph (A)) of supplemental unemployment compensation benefits provided wholly by the employer the same benefits (or a portion of such benefits if determined in a nondiscriminatory manner) which such employees would receive under such other plan if such employees were eligible under such other plan, but only if the employees eligible under both plans would make a classification which would be nondiscriminatory within the meaning of subparagraph (A).

(C) A plan shall be considered to meet the requirements of subparagraph (A) during the whole of any year of the plan if on one day in each quarter it satisfies such requirements.

(D) The term "supplemental unemployment compensation benefits" means only—

(i) benefits which are paid to an employee because of his involuntary separation from the employment of the employer (whether or not such separation is temporary) resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, and

(ii) sick and accident benefits subordinate to the benefits described in clause (i).

(E) Exemption shall not be denied under subsection (a) to any organization entitled to such exemption as an association described in paragraph (9) of this subsection merely because such organization provides for the payment of supplemental unemployment benefits (as defined in subparagraph (D)(i)).

(d) RELIGIOUS AND APOSTOLIC ORGANIZATIONS.—The following organizations are referred to in subsection (a): Religious or apostolic associations or corporations, if such associations or corporations have a common treasury or community treasury, even if such associations or corporations engage in business for the common benefit of the members, but only if the members thereof include (at the time of filing their returns) in their gross income their entire pro rata shares, whether distributed or not, of the taxable income of the association or corporation for such year.

Any amount so included in the gross income of a member shall be treated as a dividend received.

(e) CROSS REFERENCE.—

For nonexemption of Communist-controlled organizations, see section 11(b) of the Internal Security Act of 1950 (64 Stat. 997; 50 U.S.C. 790(b)).

(Aug. 16, 1954, ch. 736, 68A Stat. 163; Mar. 13, 1956, ch. 83, § 5(2), 70 Stat. 49; Apr. 22, 1960, Pub. L. 86-428, § 1, 74 Stat. 54; July 14, 1960, Pub. L. 86-667, § 1, 74 Stat. 534; Oct. 16, 1962, Pub. L. 87-834, § 8(d), 76 Stat. 997.)

AMENDMENTS

1962—Subsec. (c)(15). Pub. L. 87-834 substituted "$150,000" for "$75,000."

1960—Subsec. (c)(14). Pub. L. 86-428 substituted "September 1, 1957" for "September 1, 1951."

Subsec. (c)(17). Pub. L. 86-667 added subsec. (c)(17).

1956—Subsec. (c)(15). Act Mar 13, 1956, substituted "the items described in section 822(b) (other than paragraph (1)(D) thereof)" for "interest, dividends, rents,".

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of subsec. (c)(15) of this section by Pub. L. 87-834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87-834, set out as a note under section 821 of this title.

EFFECTIVE DATE OF 1960 AMENDMENTS

Section 2 of Pub. L. 86-428 provided that: "The amendment made by this Act [to subsec. (c)(14) of this section] shall apply only with respect to taxable years beginning after December 31, 1959."

Section 6 of Pub. L. 86-667 provided that: "(a) Except as provided in subsection (b), the amendments made by this Act [to this section and sections 503, 511, 513 and 514 of this title] shall apply to taxable years beginning after December 31, 1959.

"(b) In the case of loans, the amendments made by section 2 of this Act [to section 503 of this title] shall apply only to loans made, renewed, or continued after December 31, 1959."

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see note set out under section 821 of this title.

CROSS REFERENCES

Business lease indebtedness, see section 514 of this title.

Constructive ownership of stock rule inapplicable to tax exempt employees' trust, see section 318 of this title.

Corporate deductions for dividends received inapplicable to dividends from corporation exempt from tax under this section, see section 246 of this title.

Deduction for contribution of employer to employees' trust or annuity plan and compensation under a deferred-payment plan, see section 404 of this title.

Denial of exemption, see section 504 of this title.

Disallowance of losses with respect to transactions between persons and certain tax exempt educational and charitable organizations, see section 267 of this title.

Exclusion of services performed in employ of organization exempt from tax under this section—

Employment under Federal Unemployment Tax Act, see section 3306 of this title.

Employment under title II of the Social Security Act, see section 410 of Title 42, The Public Health and Welfare.

Facilities and services excise tax exemption to certain organizations exempt from tax under this section, see section 4233 of this title.

Feeder organizations, see section 502 of this title.

Imposition of tax on unrelated business income of charitable, etc., organizations, see section 511 of this title.

Includible corporation relative to consolidated returns as excluding corporation exempt from tax under this section, see section 1504 of this title.

Lottery under wagering taxes as excluding drawings conducted by organization exempt from tax under this section, see section 4421 of this title.

Nonforfeitable rights relative to employees' death benefits, see section 101 of this title.

Partial exclusion of dividends received by individuals inapplicable to dividends from corporation exempt from tax under this section, see section 116 of this title.

Prohibition on interests in nonbanking organizations inapplicable to certain bank holding companies exempt under this section, see section 1843(c)(7) of Title 12, Banks and Banking.

Requirements for exemption, see section 503 of this title.

Returns by exempt organizations, see section 6033 of this title.

Scholarships and fellowship grants to individuals who are not candidates for degrees as excludible from gross income where grantor is an organization described in this section, see section 117 of this title.

§ 502. Feeder organizations.

An organization operated for the primary purpose of carrying on a trade or business for profit shall not be exempt under section 501 on the ground that all of its profits are payable to one or more organizations exempt under section 501 from taxation. For purposes of this section, the term "trade or business" shall not include the rental by an organization of its real property (including personal property leased with the real property). (Aug. 16, 1954, ch. 786, 68A Stat. 166.)

§ 503. Requirements for exemption.

(a) DENIAL OF EXEMPTION TO ORGANIZATIONS ENGAGED IN PROHIBITED TRANSACTIONS.—

(1) GENERAL RULE.—

(A) An organization described in section 501(c)(3) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after July 1, 1950.

(B) An organization described in section 507(c)(17) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after December 31, 1959.

(C) An organization described in section 401(a) which is subject to the provisions of this section shall not be exempt from taxation under section 501(a) if it has engaged in a prohibited transaction after March 1, 1954.

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

Mr. FANNIN. I yield.

Mr. GURNEY. Mr. President, I support the Senator's amendment. I think it is a very worthy one, and it has been long overdue and urgently needed.

I should like to give an example of voter registration and how it worked in my own congressional district the summer of 1964. Suddenly, we were reading in the newspapers about a so-called nonpartisan voters league that had been formed in the summer of 1964. Many interested civic-minded citizens joined in the effort that the league was dedicated to, and that was voter registration.

As the summer went on and the voter registration proceeded, it became evident that some of the funds were coming from the AFL-CIO and some from foundations. The voter registration went along extremely well and was highly successful. There were approximately 10,000 new voters in the Democratic Party and almost none in the Republican Party. That is how nonpartisan it was. Of course, I was a little concerned, because I had won the year before—the first time I was elected to the House of Representatives—by only 3,000 votes. This nonpartisan voters league put on the voting list three times as many Democratic votes as was my winning margin.

I think there should be voter registration, too; but I think the political parties should conduct it under their own guise. I do not think that tax-exempt funds that were extracted from both Republicans and Democrats should be shot into the political activities of one party or the other. I think that in recent years they have been channeled pretty much in the direction of one party. Of course, that is one reason why I am protesting. But the shoe can flip and be on the other foot, too. As a matter of fact, some labor organizations in the country today are reassessing their political aims. They see a new climate coming to Washington and across the country, and they think, perhaps, that the prospects of the party that has been out of office have improved materially; and some of those unions, although there are only a scattered few at the moment, are channeling at least some of their efforts in other directions.

What I am really saying is that, while this may look politically appetizing, to vote either "yea" or "nay" depending upon what one's party registration is, these things have a habit of flip-flopping or turning around. The currents change; trends change. People think that perhaps if they vote one way today, they can be fooled tomorrow.

But, quite apart from that, what the political hard facts of life are, so far as this amendment is concerned, it certainly is true that tax exempt organizations which enjoy a special status under the Internal Revenue laws of the United States because their efforts are supposed to be channeled in charitable directions or efforts that are good for the country—and we want to encourage this sort of thing—none of these people should be engaged in political activity for either one party or the other. Even if the majority were on my side, this amendment is needed. People in the business of charitable foundations and labor unions and anybody else in this category should not be messing around and actively spending their money for politics, if they enjoy a tax-exempt status.

I would hope that we could close this loophole and put everybody on an even basis, and let the political parties do their own political activity. I certainly support the Senator.

I should like to make another point, and I think it is important; it is the real heart of this matter. No man, when he belongs to a labor union or some other kind of organization, ought to have his dues money—which is involuntarily taken from him in many States, because he has to join if he wants to keep a job—channeled into the efforts of a political party that may not be the one he supports.

Again, we harken back to my own political career. In the congressional district I represented, I used to get a majority of the labor union votes. Many members of labor unions would come to me and say, "Mr. Gurney, we're for you and we're going to vote for you, but we don't like what our leaders are doing and we wish we could do something about it," because they were very actively in support of the other side.

I simply cite that as an example of what the Senator from Arizona has been talking about, that the dues of many people are involuntarily used in quite a different way from that in which they want the dues used so far as political activity is concerned. The Senator's amendment would correct this, and I support him.

Mr. FANNIN. I thank the distinguished Senator from Florida.

In support of what the Senator from Florida has said, I have a letter from the Internal Revenue Service, dated November 17, 1969, signed by the Assistant Commissioner. I should like to read a couple of paragraphs to show that there is a difference:

Paragraph (c)(5) of section 501(c) is the only one of the seventeen paragraphs of that section that contains no definitions, limitations or prohibitions. Only in regard to labor, agricultural, horticultural organizations did Congress grant exemption in such broad, unlimited terms. For example, Congress did not set forth in section 501(c)(5) provisions such as those contained in section 501(c)(3) denying exemption to charitable and educational organizations which participate in any political campaign on behalf of any candidate for public office. The inclusion of various definitions, limitations, and prohibitions in the other paragraphs of section 501(c) evidences that in enacting the section Congress gave attention to such matters, yet did not apply any restrictions to labor organizations.

Therefore, it is the Service's position that if a labor union has as its principal purpose the representation of employees in such matters as wages, hours of labor, working conditions, and economic benefits, and the general fostering of matters affecting the working conditions of its members, the exemption of the organization is conferred by the statute. We find no basis to support a modification of this position.

Consequently, I say that there is no basis to support what is being done now by the unions.

Let us look at what is involved. Why am I so concerned about this particular amendment?

Mr. President, I feel this matter is as important as any amendment in the entire tax bill from the standpoint of the future employment of the people of our Nation. We must have a balance between labor, management, and the Government. If we do not soon obtain a balance between the unions, business officials and the Government we are going to see more and more jobs exported to other nations. This is something that affects every State represented in the Senate. We do not have to go very far to realize and to know what is happening. One can go to his own neighborhood, or to his State, and ask the chamber of commerce there. Ask the State union organization what is happening.

We see one organization after another putting plants in foreign countries. At the present time we are considering the textile industry. Most exasperating to me is that we are losing jobs in the textile industry. We could look at nearly any other industry. We could talk about motorcycles, automobiles, or any piece of equipment, electronic equipment, or, for instance, television sets.

This matter was forcefully brought home to me when I discovered that in the first 6 months of this year we only exported throughout the world about 65,000 television sets. Why do I bring up that matter? I am from a State which has some fine electronic plants. I observed those companies that were increasing their facilities, not in this country but by going into some foreign land because they have been driven out, they say, because of the restrictions labor unions have placed on their employees and their employment of people.

Mr. President, this does not mean I am against good wages. I am for good wages. With respect to working conditions, we have the finest working conditions, the best in the world. Our industries could be the most productive but many limitations are placed on them so that in many instances they are not competitive. Therefore, when I state we exported 65,000 television sets what has happened is that plants located in other countries were involved. We imported 653,000 television sets from foreign lands, made by American companies.

Even more exasperating and even more frightening to me is what has happened with respect to imports from Japan. Japan shipped to the United States in the first 9 months of this year about 2 million television sets. Imagine how many jobs were lost to American workingmen.

So I am fighting for members of the union; I am fighting for the working people of this country, and for all the people of this country, because if we do not do something about this situation to bring about a better balance, we are going to see more and more jobs go abroad. It is happening every day. I trust this body will realize that this is a first step to correct that situation. This is a very much needed step, and if we do not take this much needed step, we will probably never take it. I hope we will have a commission or board appointed by the President which will include labor officials, officials of industry, and officials of Government, a board that will get together and make a study of this problem and report back to the President, because this is one of the most serious problems facing this Nation today. That is why I am so anxious to take this first step.

Mr. CASE. Mr. President, amendment 303 proposes to revoke the tax exemption of any organization which carries on any voter registration.

In other words, organizations such as the Southern Regional Council, which conducts voter registration drives in the South, and the League of Women Voters, which conducts such drives throughout the country, would be forced to halt these activities or give up their tax-exempt status.

But the heritage of amendment 303 and a full page ad in the Washington Star indicate the amendment is aimed primarily at the tax-exempt status of labor unions.

The ad, paid for by the National Right To Work Committee, which is a tax-exempt organization itself, said the amendment "would treat unions like other tax-exempt organizations by removing the exemption privilege if any part of union 'dues, assessments, fees, or other charges imposed on the members' were used for politics."

The heritage of amendment 303 is derived from amendment 145, which specifically singled out labor unions and exempted all other tax-exempt organizations from its provisions.

While broadening its coverage to include all tax-exempt organizations, amendment 303 narrowed the type of political activities which would be grounds for revocation of an organization's tax-exempt status.

The original amendment called for loss of an organization's entire exemption if any portion of its dues or assessments was used "to support or oppose any candidate for public office or for other political purposes."

The new amendment is more specific, limiting the type of political activities affected, to support, or opposition to a candidate or a political party, or to carrying on voter registration.

The Corrupt Practices Act already makes it illegal for labor unions, along with corporations, to make a contribution or expenditure in connection with any election for President, Vice President, or Members of Congress.

In shaping the contours of the Corrupt Practices Act, Congress specifically sought to develop a balance to afford all groups a fair opportunity to take part in our political process. This act was not hastily drawn nor lightly considered. Indeed, in 1967 the balance struck by the act was reaffirmed by the Senate by rejecting a proposal which would have prohibited group activity in the political area.

The consideration and debate which preceded enactment of the Corrupt Practices Act demonstrated the complex policy questions which are involved in this area. Yet, amendment 303 is offered without benefit of thorough study and in the absence of committee hearings of its provisions.

The impact on voter registration drives is obvious. Not so obvious are its consequences on other activities of civic, charitable, and other nonprofit organizations which might be construed as opposition to a political party.

I shall vote against the amendment.

Mr. TALMADGE. Mr. President, I would like to have stated the amendment in the nature of a substitute which is pending at the desk.

Mr. FANNIN. Mr. President, I would like to make an inquiry of the Senator from Georgia.

Mr. TALMADGE. I yield for a parliamentary inquiry or such other inquiry as the Senator may have.

Mr. FANNIN. Is the Senator submitting an amendment?

Mr. TALMADGE. I am offering an amendment in the nature of a substi-

tute to the amendment proposed by the Senator from Arizona.

Mr. FANNIN. I thank the Senator.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. TALMADGE. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with, and that the amendment may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD, is as follows:

On page 148, line 16, insert the following:

"SEC. 122—POLITICAL ACTIVITIES OF TAX EXEMPT ORGANIZATIONS.

"(a) DENIAL OF EXEMPTION.—Section 501 (relating to exemptions from tax) is amended by redesignating subsection (e) as (f) and by inserting after subsection (d) the following new subsection:

"'(e) PROHIBITION ON CERTAIN POLITICAL ACTIVITIES.—No organization described in subsection (c) or (d) shall be exempt from taxation under subsection (a) for any taxable year in which any part of its income or assets or of the amounts received for its support (including, in the case of a membership organization, dues, assessments, fees, or other charges imposed on members) is contributed to any candidate for Federal office. For the purpose of the preceding sentence, a contribution shall be deemed to occur only where cash or its equivalent or property which has an ascertainable fair market value is transferred to or otherwise made available to a political party or to a political candidate or to an organization formed or availed of to support a political candidate. A contribution shall not be deemed to occur where the principal character of an activity in support of a political party or a political candidate constitutes mobilizing membership of the organization for such purpose, as distinguished from the contribution of cash or its equivalent or property which has an ascertainable fair market value.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969."

Mr. TALMADGE. Mr. President, I applaud the distinguished Senator from Arizona for his attempt to close a very important tax loophole. It cannot be doubted that a great many tax-exempt organizations do make substantial political contributions to candidates for office. I share the Senator's objection to the improper diversion of tax-exempt funds from their intended purpose into large-scale subsidies for political candidates. I believe our normal political processes must not be subverted through massive injection of tax-exempt funds into political contests.

However, I am equally concerned that we not impair or destroy those legitimate political activities in which American organizations have traditionally engaged.

It is desirable that citizens who have similar objectives work together in membership organizations to make their voices heard in the democratic process of electing their representatives in Government. And, it is wholly proper that this activity occur through membership organizations such as chambers of commerce, labor unions, trade associations, civic clubs, and similar groups holding a tax-exempt status.

These are not charitable and educational organizations, on which special restrictions must be imposed because contributions to them qualify as charitable contributions for the purpose of a tax deduction. They are instead organizations which have been formed by their members because they desire to make common cause in a particular area. They may be businessmen, club members, farmers, union members, realtors, manufacturers, doctors, lawyers, and so on. They have a common interest within their particular area and that common interest naturally extends to the question of who represents them in Government.

It is true that the groups mentioned are not organized primarily for political purposes. Farm groups perform such diverse functions as advising their members of the latest farm technology and providing low-cost insurance. Labor unions are organized primarily for collective bargaining. Professional associations police their own membership and maintain the high standards of the profession. It would be punitive and unfair to eliminate the tax-exempt status of these worthy organizations just because the members of the organization wish to express their common voice in favor of a particular candidate or a particular party. It should not be our purpose to stifle that common voice. It should instead be our objective to insure that the tax-exempt funds are not diverted by these groups to support political parties and candidates.

Let us look carefully at the amendment of the Senator from Arizona. Read subsection (e). This amendment states that an organization shall lose a tax exemption if any part of its income or the amounts received for its support are used directly or indirectly to support a candidate, a party, or to carry on voter registration. This amendment is so broad that if a union rented a public hall to hear a particular political candidate, it would be subject to losing its tax exemption. It would have spent a part of its income to support a candidate for public office.

If a farm organization were to adopt a resolution in support of the farm policy of a particular party during a campaign, it could lose its tax exemption because of the incidental expense involved in publishing the resolution.

Under the language of the Fannin amendment, a civic club which organized its membership to make telephone calls for a party or candidate would lose its tax-exempt status.

Mr. FANNIN. Mr. President, will the Senator from Georgia yield?

Mr. TALMADGE. I yield.

Mr. FANNIN. I want to clarify one point. When the Senator says "civic club," would that be the same as a chamber of commerce, say?

Mr. TALMADGE. Any tax-exempt organization; yes, sir.

Mr. FANNIN. I would refer to the present law, "Political activities of social welfare organizations such as civic leagues which are exempt from section 501(c)(4) are limited by regulations issued under this section." So, they are already covered.

Mr. TALMADGE. Would the Senator repeat that, please?

Mr. FANNIN. "The political activities of social welfare organizations such as civic leagues which are exempt from section 501(c)(4) are limited by regulations issued under this section."

These regulations provide promotion and social welfare, but does not include those participating in a political campaign on behalf of or in opposition to any candidate for public office. So, they are already covered.

Mr. TALMADGE. I do not recall any of them that have ever had tax exemption revoked simply because they participated in the right of free speech under the Constitution of the United States.

Mr. FANNIN. Nor would they have, under my amendment. They absolutely would not have.

Mr. TALMADGE. As I read it, it says:

No organization described in subsection (c) or (d) shall be exempt from taxation under subsection (a) for any taxable year in which any part of its income or assets or of the amount received for its support including in the case of a membership organization, dues, assessment, fees, or other charges imposed on members if used directly or indirectly.

As I read that——

Mr. FANNIN. Go on, go on to the other three items.

Mr. TALMADGE. "To support or oppose any candidate for public office, to support or oppose any political party, or to carry on any voter registration."

I have had that carefully analyzed by some expert lawyers, and it is so broad that if a farm group got someone to fly down to Georgia to explain the farm program and he wound up denouncing the Republican Party or the Democratic Party, and they had paid his transportation to Georgia, they would lose their tax exemption as a result thereof.

Mr. FANNIN. That is a wide interpretation. I have had this properly and thoroughly checked by former counsel of the National Labor Relations Board and by attorneys who are reliable here in Washington, and in Arizona, and that simply is not true.

Mr. TALMADGE. I read the language again——

Mr. FANNIN. I understand the language. But that is the Senator's interpretation.

Mr. TALMADGE. Where they pay out of dues or assessments or fees or other charges imposed on the members, if it is used indirectly to pay a speaker to speak to an organization, and he denounces another political party or one of the candidates, it would be using that money indirectly or directly.

Mr. FANNIN. If he is using tax-exempt money to go down to Georgia to carry on a campaign, that naturally would be. But what the Senator is talking about is so far-fetched, where a person would go down to Georgia and talk, and in addition would talk and be involved in what the Senator is talking about, that would not apply.

Mr. TALMADGE. Let us use this illustration: A junior chamber of com-

merce at a national convention, if it had a candidate for President speaking there to the organization, would certainly be using their facilities to aid a political campaign.

Mr. FANNIN. Not one at the expense of the other. All we are asking for is a balance, for fairness. I talked to the president of the National Jaycees in Oklahoma City, and their counsel, and certainly I do not agree with the Senator's interpretation, and they do not, either.

Mr. TALMADGE. I think anyone who studies the language knows that it is broad enough to cover the situation to which I have referred. Everyone I have had look at it thought the same thing.

Mr. FANNIN. The exact opposite has been true. In my analyzation of it by legal counsel, I made sure that we would be careful when the language was prepared, to be sure that it did not cover anything of that nature.

Mr. TALMADGE. I think the language is so broad that if an association of manufacturers that paid the travel expenses of a member who spoke in favor of a political party would be denied its tax-exempt status.

Mr. FANNIN. That is not the interpretation given to me. It is cetrainly not the intent.

Mr. TALMADGE. I fear that Senator Fannin's amendment is so broad that it would preclude any partisan mention of political candidates by such organizations as the AFL–CIO, the National Association of Manufacturers, and the U.S. Chamber of Commerce in their own newspapers or other communications to members. It would also preclude the preparation and distribution of an analysis of the voting record of an elected representative on issues of concern to the members of the organization.

Mr. President, I believe that there is a great deal of merit in the Senator from Arizona's proposal. However, it must be modified to make clear that tax-exempt organizations can continue to engage in legitimate membership activities.

We should close the tax loophole that permits tax-exempt organizations to subsidize the campaigns of political candidates, but we can do this without harsh and punitive legislation.

Therefore, I would amend the proposal of the Senator from Arizona by the inclusion of language in the susbtitute I have proposed to the Senator's amendment, which would make it clear that the mobilization of an organization's manpower in favor of a political candidate or party is permissible. This kind of activity will be permissible only so long as the principal character of the activity is the mobilization of its membership rather than the contribution of cash or property.

Mr. President, I hope the Congress will act with restraint and reason in its attempt to curb abuses by tax-exempt organizations. It would be a tragedy if we were to deny to legitimate tax-exempt organizations of this Nation the right to give voice to the opinions of their members. To do so would be to deny freedom of expression to a force essential for a viable democracy.

In fact, to do so, in my judgment, would be violative of article I of the Constitution of the United States which grants to every citizen of the United States the right to free speech.

I doubt that Congress would do so.

(At this point, Mr. COOK took the chair as Presiding Officer.)

Several Senators addressed the Chair.

Mr. TALMADGE. Mr. President, let me first explain my amendment, then I will gladly yield.

The amendment I have proposed would do this: No organization described the same as the Senator's language shall be exempt from taxation under subsection (a) on any taxable year in which any part of its income or assets or of the amounts received for its support including in the case of a membership organization, dues, assessments, fees, or other charges imposed on members which contributed to any candidate for Federal office.

For purposes of the preceding sentence, a contribution shall be deemed to occur only where cash or its equivalent or property which has an ascertainable market value is transferred to or otherwise made available to a political party or to a political candidate, or to an organization formed or availed of to support a political candidate. A contribution shall not be deemed to occur where the principal character of an activity in support of a political party or a political candidate constitutes mobilizing membership of the organization for such purpose as distinguished with the contribution of cash or its equivalent or property which has an ascertainable fair market price. The effective date will be the years beginning after December 31, 1969.

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

Mr. TALMADGE. I yield first to the Senator from Florida, who attempted to get recognition a moment ago.

Mr. GURNEY. Mr. President, I certainly compliment the Senator from Georgia on his amendment which cuts off the contribution of cash or property which may have value as far as espousing any particular candidate or party is concerned; but let me ask him to clarify the meaning of his language to some extent here.

All of us know that scores of dollars, millions of dollars, flow from labor union treasuries into political campaigns every election year. We also know that contributions go in two ways. Some are in cash and go directly to the candidate, to be used by him in whatever ways he wants. The amendment would cut that off. But the Senator also knows that the bulk of funds is used in other categories, the hiring of workers to espouse the candidate's cause.

Let us take an example. One of the operations in a campaign is the boiler room activities, where 100 or 200 telephones are hooked up, financed solely by labor union funds. What would the Senator's amendment do as far as that is concerned? Would it cut that off?

Mr. TALMADGE. I think any organization could make telephone calls or anything of that nature if it did not contribute cash or anything of ascertainable market value. That is what my amendment precludes.

Mr. GURNEY. I take it the Senator's answer is that if there were a couple of hundred telephones hooked up in a room in Dade County, Fla., for example, to espouse the cause of the Democratic candidate for Congress or for the Senate, or, for that matter, the Republican candidate for Congress or for the Senate, the Senator's amendment would not hit at that?

Mr. TALMADGE. Any tax-exempt organization could go out and attempt to get votes for a candidate. It could not contribute money or anything of ascertainable market value to any candidate or party in any Federal election.

Mr. GURNEY. What about workers, for example? Say a tax-exempt organization hires a couple of hundred workers whose job it is to distribute literature on behalf of a particular candidate or party. Would the Senator's amendment cut that off, or would it be legal after the Senator's amendment becomes law, if it does?

Mr. TALMADGE. If it constituted a contribution of ascertainable market value, it would be precluded. I attempted to draft the amendment in such a way that it would not preclude any tax exempt organization from fully participating in the political activities of the candidate or party of its choice; but it could not take money collected from its members in any way whatsoever to contribute to the candidate or party in such a way that it would constitute money or something of ascertainable market value.

Mr. GURNEY. I do not disagree with the Senator's statement that tax-exempt organizations ought to have a right to persuade their members to vote one way or the other. I think that is legitimate political activity. But I do not think the amendment strikes at the heart of the matter, and from the colloquy we have had here, if a union, for example, contributes money for boiler room operations in which workers would work for the party or candidate, it would not be covered. That is what the amendment of the Senator from Arizona does. It cuts off that kind of activity as well as the direct contribution of cash; and it is the other kind of activity, to help turn out the vote, which is usually the deciding factor in the campaign.

Mr. TALMADGE. If it did any work involved in a political campaign, then it would have an ascertainable market value and would be precluded.

Mr. GURNEY. Let us pursue that point, because that is important. If the amendment of the Senator from Georgia is adopted—and I think one amendment or the other may be adopted—I think we should have legislative history on it, and that is what I am trying to find out.

Mr. TALMADGE. If they recruit and hire employees to participate in that campaign for a candidate, then it would have an ascertainable market value and it would be precluded. On the other hand, if they had full-time employees who had been employed full time and

had been used, that would not be precluded.

Mr. FANNIN. That means that employees could be employed and money could be spent on them to do political work. It would be legitimate under the amendment of the Senator from Georgia. If, let us say, $1 billion had been raised from dues, $400 million could be taken out of that fund if they did not enter into political activity. In other words, they could save that money and cut it in half, is that not true, by using year-round employees?

Mr. TALMADGE. Under my amendment, a tax-exempt corporation could exercise its rights under the first amendment of the Constitution of the United States to support a candidate. I think to do otherwise would be a denial of free speech which is inherent in our Constitution. I thought the Senator's objective here was to get at money for political campaigns out of contributions.

Mr. FANNIN. It is just as bad to utilize money that goes for campaigns to hire employees to work for a candidate or party. What difference does it make? The Senators says they can take hundreds of millions of dollars and use it going from house to house, and do anything they want to in political activities. The Senator's amendment defeats the purpose of my amendment.

In other words, they could keep their regular work staff and they could have any size staff they wanted to if the staff were hired year round. Then they could use their surpluses and throw it into any type of service they desired. That is exactly what we are trying to prevent here. In other words, the organization could take the union members' dues which are tax exempt and use them that way. A member has not anything to do with how that money is spent. Many members have written to the Senator from Georgia and to me complaining about this. Still, the organization could take that member's money. No tax would be paid on it, but it is extracted from him.

Mr. TALMADGE. If the Senator will read my amendment——

Mr. FANNIN. I have already read it.

Mr. TALMADGE. It reads:

A contribution shall not be deemed to occur where the principal character of an activity in support of a political party or a political candidate constitutes mobilizing membership of the organization for such purpose . . .

Mr. FANNIN. And so they can use regular employees in any activity that they so desire.

Mr. TALMADGE. Any tax-exempt organization does that now. The AMA mobilizes its membership. The National Association of Manufacturers mobilizes their members. The lawyers mobilize their members. The doctors mobilize their members.

Mr. FANNIN. My amednment applies to the AMA and the Chamber of Commerce——

Mr. TALMADGE. I am aware of that, but I do not want to deny them a precious right which they have——

Mr. FANNIN. No one denies them the precious right which they have, but they are not going to get tax-exempt status under my amendment if they engage in political activities.

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

Mr. TALMADGE. I yield.

Mr. PACKWOOD. I wonder if the Senator will make a distinction between two facets of this question. On the one hand, the Senator says any organization can use its work force if it limits contacts with their own members.

Mr. TALMADGE. Yes.

Mr. PACKWOOD. But there is a second distinction, and that is the category in which the organization goes beyond contacting their own members. The amendment says "cash or its equivalent or property which has an ascertainable fair market value." It is the "or its equivalent" which has me bothered, because to me that should include the value of paid people.

Mr. TALMADGE. It would if it went outside their own membership.

Mr. PACKWOOD. In other words, if the union takes its business agent, who is its full time business agent all year long, and, for September and October, delegates him to go to work for the Republican or the Democratic Party, or puts him in a boiler room operation that is calling people beyond its own membership, that is proscribed by the Senator's amendment?

Mr. TALMADGE. I think it would be.

Several Senators addressed the Chair.

Mr. TALMADGE. I am delighted to yield to the Senator from Florida for a question.

Mr. GURNEY. Just to follow up the question of the Senator from Oregon so we can pin it down, in some cases, labor organizations have actually lent a staff man to a political candidate, to help out in his operation; and, as I understand, the Senator's amendment would proscribe that also?

Mr. TALMADGE. That is correct. That would be ruled out.

Mr. GURNEY. I thank the Senator.

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

Mr. MONDALE. Mr. President, I rise to oppose the amendment offered by the Senator from Arizona.

This is quite an amendment. I think the Senate ought to understand what it would do. May I have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats.

Mr. MONDALE. This amendment does not prohibit unions from contributing treasury cash to Federal candidates, because that is already prohibited under Federal law. There is no issue here as to the use of compulsory dues by a union to help Federal candidates, because that is and has been prohibited by Federal law for many years.

This amendment tries to go beyond that, and thoroughly emasculate the capacity of unions and their membership to do anything, including advising their own members as to whom they support and whom they oppose, and including activities to encourage voter participation; and it extends beyond unions to every other kind of tax-exempt organization, such as the NAM, and AMA, the League of Women Voters, and any other similar organization. That is what it does.

There are certain things that it does not cure. I call the attention of the Senate to two very large advertisements which recently appeared in the Washington Evening Star and the Washington Post, sponsored by the National Right To Work Committee. This is a tax-exempt organization.

One of them states, after beginning with a quotation by Senator FANNIN:

Amen, Senator. An open letter to all the Members of the United States Senate.

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

Mr. MONDALE. I will yield when I complete my remarks.

Do you want working people to be compelled to contribute to your election campaigns for public office? We think not.

Get this sentence:

Yet thousands of public officials, including many Members of the United States Senate, probably would not be in office today were it not for union spending of compulsory dues money in their election campaigns.

Many of us are apparently here only because unions violated the Federal law and contributed union dues money to us.

This particular advertisement was paid for by this tax exempt, nonprofit organization, and they can continue to spend these thousands of dollars in that way, under the Fannin amendment, and not be touched at all.

Now, suppose a union president, feeling that he has been libeled by this false allegation in this advertisement on behalf of the Fannin amendment, writes an editorial in a union newspaper saying that we should defeat people who support the amendment, because it utterly destroys the capacity of the union to serve its membership, without the use even of compulsory dues. Under the Fannin amendment, that union would lose its tax exemption. It would be silenced, and have to pay corporate income tax on the dues paid into the union, even though none of those dues could be used for political purposes.

That is what the Fannin amendment does. It is an unfair, one-sided, anti-labor amendment, designed not only to prevent citizens from contributing to a political campaign, but from even speaking up and asserting their rights under the First Amendment.

It does many other things. The League of Women Voters, for example, is a tax-exempt organization. In recent years, it has undertaken many exciting efforts to try to broaden voter participation in our country. In New York and Dayton, Ohio, for example, they have worked with churches and civic groups in an inner city registration drive, which added 4,000 new voters. In addition, in Waterloo and Cedar Falls, Iowa, the League of Women Voters worked together to aid in voter registration. Throughout this country, the League of Women Voters is trying to broaden the number of people who participate in elections as United States citizens should.

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

Mr. MONDALE. I am delighted to yield to the Senator from West Virginia.

Mr. RANDOLPH. It is very important—yes, it is necessary—that voter registration drives by many organizations go forward on many fronts. I point to the need for participation, not only of those citizens who are unregistered, but of those who are registered but then fail to participate with the actual use of the franchise of freedom—the ballot.

The able Senator from Minnesota (Mr. MONDALE) has mentioned certain areas of this country in which registration efforts have been made by organizations, especially the excellent work of the League of Women Voters. We had, in the Commonwealth of Virginia, in the first primary in the crucial and bitterly contested governorship race this year, only 27 percent of those eligible to vote in that State who actually went to the polls. I think such an evident lack of real action is a tragedy, and yet it occurs. In New York City in the primary the results were somewhat better, but only 32 or 33 percent of the eligible voters in New York City used the ballot on that occasion. The voting culminated months of intensive campaigning, with millions of dollars spent to interest the people.

There is a very real need, as I have indicated, for efforts by organized groups to elicit the participation of their members and people generally, in voter registration. Whether they vote after they have registered is an individual determination, as is the way they vote. Too often they do not vote, and thus they weaken the elective process—the heart of our Republic's strength.

I decry this trend in our American system. There is a great body of young Americans that should be challenged with the opportunity to use the ballot, where now they are denied it. I speak of our 18-, 19-, and 20-year-olds. In 1942, as a Member of the House of Representatives, I offered one of the first constitutional amendments to lower the voting age to 18. I have repeated the effort through the years, often frustrated, but continuing within the legislative process to bring this to fruition.

Yes, the fact has been somewhat overlooked, even by the news media, that now the constitutional amendment which I have introduced and which is pending, has 66 cosponsors. There are four other Senators who have told me they will support my resolution when it comes to the Senate for decision. As Senators know, it is not two-thirds of the Senators present and voting, but two-thirds of the membership of the Senate, who can pass a constitutional amendment to be referred to the States for decision. I am very pleased to emphasize that, even though some of the Members of this body may not realize it that there are 66 Senators who have joined as cosponsors of my resolution.

I believe, if we check with the Subcommittee on Constitutional Amendments and the Committee on the Judiciary membership itself, we have the necessary votes to bring the measure to the Senate. I am hopeful that in January, we shall have an opportunity, in hearings, to focus attention on this very important matter.

I only wish there might be the kind of march that would bring youth to Washington, D.C., not to be against something but for something—an expression affirmatively, and hopefully, in their vigorous endorsement of the voter for 18-, 19-, and 20-year-olds. I think here is an answer to much of the problem that we now have with our young people. I only wish they could see it. Many of them do. Somehow we must help them realize the importance of doing more than they have done to bring about this opportunity for the States to face this issue, after Congress acts. A national thrust is vital now.

I do not say to the States what they shall do, but we would give the impact of congressional support to the 18-, 19-, and 20-year-old voting. Our country needs this successful effort at the present time.

I realize that that is an aside from what we are to vote on but I feel my views can be woven into the fabric of the broader discussion.

I am not critical of any Member who presents an amendment of this kind. I am listening to the debate with intense interest. Senators FANNIN and TALMADGE have given careful study to this problem. I fear, however, that their amendments will be a deterrent to organizations, including labor unions, which have persevered effectively in a legitimate way to interest people in active participation in the processes of government. We must not strangle these efforts. The intention, I am sure, is not to do so but the result can well be to that effect. I shall, therefore, vote against the amendments.

Mr. MONDALE. Mr. President, I thank the distinguished Senator from West Virginia for his most useful comment. No one has worked harder to bring the right to vote to those who are 18 years old or older, than has Senator RANDOLPH. Indeed, I am sure that his efforts will one day succeed and our Nation will be the stronger for it. His eloquent appeal today for broadened voter participation underscores the need to encourage, not discourage, efforts by the League of Women Voters, by organized labor, and by others who seek to increase broader participation. I commend him for it.

One wonders why the great fear, why the great apprehension which leads to these efforts to discourage the League of Women Voters and the foundations, just as, a day or two ago, we saw efforts to discourage private organizations and foundations from encouraging nonvoters to register and exercise their franchise.

This same kind of fear of people voting is seen in many States where registration laws are deliberately set up to block a working man from registering to vote during working hours. Voting registration is set up to coincide with working hours. And a man who is working an 8-hour shift cannot register to vote.

The professional man, however, can easily get off a few hours to vote. And his wife can easily take their second car and go to register.

In some States we have registration each year. And the lists are purged. That makes it exceedingly difficult for the average uninformed working person to even know of the complicated restrictions that make invalid, unknowingly, his capacity to even participate.

Some States, for example, hold registration during a period when they know that thousands and thousands of their people are out of State as migrant laborers. This is done because they know these people will be unable to register and participate in their elections.

This is done even though the migrant workers are in the majority in those counties.

We find here an amendment that would try to destroy the capacity of the League of Women Voters to expand and increase the number of participants who can register and vote in these communities.

I find it to be a very strange activity.

Mr. PACKWOOD. Mr. President, is the Senator talking about the amendment of the Senator from Georgia?

Mr. MONDALE. I am talking about the amendment of the Senator from Arizona.

Mr. PACKWOOD. Mr. President, I understand that in the colloquy had a while ago, we agreed, I thought, that this amendment would not apply to the League of Women Voters or to the Chamber of Commerce.

Mr. MONDALE. It applies to the League of Women Voters whenever it officially participates in the voter registration by the terms of the amendment.

Mr. FANNIN. Mr. President, I support the League of Women Voters.

Mr. MONDALE. We are not talking about theoretical support. We are talking about opposing any effort to register.

Mr. FANNIN. Insofar as the League of Women Voters is concerned, if they have voluntary contributions, that activity would not be affected.

I have never heard of them making any money. I do not know why their tax-exempt status is so important to them.

Mr. MONDALE. Mr. President, this is the same issue that we had a few days ago in the consideration of the Yarborough-Scott amendment when it was the effort of some to prevent private foundations from participating in voter registration.

The Senate Finance Committee adopted the amendment. They said it was wrong for private foundations to do so and that they would lose their tax-exempt status if they participated in any way in expanding the right to register, vote, and participate in American politics.

This is the same issue. However, this involves the League of Women Voters. This is directed against the League of Women Voters.

Mr. FANNIN. It is not directed at the League of Women Voters.

Mr. MONDALE. It says that if an officer of the League of Women Voters, a full-time, paid person, participates and uses the assets of the League of Women Voters to broaden the registration of persons to vote, they are in jeopardy of losing their tax-exempt status. It is the same thing with respect to unions or any other organization. They should have the right to expand the number of

people who assert their right in a democracy to vote.

Mr. FANNIN. We are trying to do exactly the opposite of what the Senator says. Since the Senator referred to same by name——

Mr. MONDALE. I have not yielded yet.

Mr. FANNIN. The Senator referred to me by name.

The PRESIDING OFFICER (Mr. MATHIAS in the chair). Does the Senator yield?

Mr. MONDALE. I am glad to yield for a question.

Mr. FANNIN. Mr. President, the Senator referred to my name in an advertisement. I wish the Senator would let me explain.

I do not object. This memorandum is 4 pages long. They devote 3 pages of the memorandum to me. They use a very fine high school picture of me. I do not know where they got it.

They talk about my amendment. It is very misleading. I do not object to that. However, Evelyn Dubrow, the legislative representative of the International Ladies' Garment Workers' Union is distributing a 7- or 8-page memorandum on my amendment.

The memorandum says:

> The amendment would not affect business-oriented and many other tax-exempt organizations (such as the National Association of Manufacturers) which are free to participate in political activities without loss of tax exemption. The Fannin amendment is just an antiunion proposal intended to increase the political power of business groups and other special interest groups such as right wing organizations by according them preferential status under the tax laws.

They are all covered by my amendment. I do not understand what the Senator is talking about.

Mr. MONDALE. Mr. President, then I will renew my point. These ads have cost the tax-exempt Right To Work Committee thousands of dollars. They declare that many of us in the U.S. Senate, because we receive illegal campaign contributions from union treasuries, should vote for the Fannin amendment.

If the union, for example, should write an editorial that some Senator should be opposed because he sponsored this amendment, or that another Senator should be supported because he opposed the amendment, under the Fannin amendment that union would lose its tax exemption.

The Right To Work Committee that sponsored these ads retains a tax-exempt status. However, if a union treasury advises its own members on an issue that it feels is essential to the welfare of that organization, it can lose its tax exemption.

That is one of the reasons why I oppose the amendment.

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

The Senator is making statements that are simply not true.

Mr. MONDALE. Is the Senator from Arizona claiming that his amendment in any way affects——

Mr. FANNIN. I say it does not affect this publication in any way. It does not affect that publication. I did not intend for it to affect them.

I am not trying to have an all-encompassing amendment.

Mr. MONDALE. Mr. President, let me ask this question. Suppose a union would write an editorial in its paper, its official paper, and say, "Senator MONDALE should be supported in the next election because he opposed the Fannin amendment that we found to be inimical to our best interests."

Mr. FANNIN. I do not object to them opposing me. This publication is perfectly legal.

Mr. MONDALE. The Senator has not answered my question. So, I will ask it and answer it myself.

If the union wrote that ad, it would lose its tax exemption under the amendment.

Mr. FANNIN. This is not true. And here is the evidence of it.

Mr. MONDALE. The amendment says that any union which uses its dues assessments or fees directly or indirectly to support or oppose a candidate loses its tax exemption.

That is precisely what I referred to.

Mr. FANNIN. What did the Senator have the memorandum on COPE for? They do not lose anything as long as they operate within the law.

Mr. MONDALE. I think the point is very close.

Mr. GURNEY. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I have some other remarks to make, and then I will yield.

The amendment goes beyond the prohibition of the contributions of dues which is now prohibited. In effect, it would nullify the Yarborough-Scott amendment adopted a few days ago for foundations to be able to participate in voter registration drives.

This would say to the League of Women Voters, now a tax-exempt organization participating in voting registration drives, "If you use any assets, any fund money, you jeopardize your continuation as a tax-exempt organization."

It goes so far—and I agree with the Senator from Georgia on this—that in my opinion it even impairs the rights of an organization or a person under the first amendment by declaring that to be illegal, if one wishes to keep his tax-exempt status, to support or oppose any candidate. So that if a union or if a tax-exempt organization sends out in its newspaper a letter in support of one of us or in opposition to one of us, it loses its tax-exempt status. If it supports or opposes any political party, it loses its tax-exempt status.

This is an unparalleled, unprecedented effort to interfere with the right of tax-exempt organizations to express themselves pursuant to the guarantees of the first amendment of the Constitution.

Moreover, it would place the power to drop the guillotine blade on any of these organizations at the discretion of the tax commissioner. He would first decide who had violated this broad rule and who had not. Every nonprofit organization—the League of Women Voters, the NAM, the AMA, the National Rifle Association, the Farm Bureau, the Grange, the chamber of commerce, the American Legion, the American Cooking Association, the AFL–CIO, the National Right To Work Committee, boards of trade, social organizations, life insurance associations, credit unions—would never know, when they speak to their own members, when the Internal Revenue Service would say, "You are now to be taxed as a corporation."

I say that it is an unprecedented effort to interfere with the right of people to speak out in the political matters of this country and must be defeated.

Mr. President, this amendment was never the subject of any hearings before the committee. It strikes at the laws of States and local governments as well as the Federal Government, without any hearings. It could affect local chambers of commerce and the other organizations to which I have referred, and it would, more than any other proposal I have seen, interfere with and imperil the vitality of the democratic processes of our country.

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

Mr. MONDALE. I yield.

Mr. HARRIS. Mr. President, I wish to join in the statement being made by the distinguished Senator from Minnesota (Mr. MONDALE).

As a member of the Committee on Finance, I opposed and voted against this amendment or a similar amendment when it came up there, because I agree with the distinguished Senator from Minnesota that we ought to be doing everything we can in America to broaden the voting base and to make it easier for people to take part in our political processes. I think this amendment will do just the opposite. I think it will make it much more difficult for a great number of people who have associated themselves together in various kinds of organizations to take part in the political process, to broaden the base.

Therefore, I commend the distinguished Senator from Minnesota for the careful way in which he has presented his arguments to the Senate, and I hope his arguments will be approved by the Senate.

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

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

Mr. MONDALE. I yield to the Senator from Missouri.

Mr. EAGLETON. Mr. President, I believe the remarks of the Senator from Minnesota (Mr. MONDALE) clearly demonstrate that the basic thrust of the Fannin amendment is not to eliminate an inequity in the present law, but it is in fact, designed to create an inequity.

The Senator from Minnesota has pointed out that the present law, with respect to political activities of tax-exempt organizations, applies to labor unions and that all tax-exempt organizations are treated equally. The only exceptions are charitable organizations which operate under a "no-politics" rule. So, contrary to the proponents of the Fannin amendment, labor unions do not enjoy any special privilege. There is no loophole here.

The Fannin amendment has been revised to apply to all tax-exempt organizations to give the appearance of neutrality. But it is a rather badly kept secret that even in its revised form, it is aimed primarily at the political activi-

ties of labor unions. In spreading its net a little more widely, the Fannin amendment now would catch another tax-exempt organization that carries on voter registration drives, as has been pointed out by the Senator from Minnesota—the League of Women Voters.

On Thursday of last week, the Senate adopted the amendment of the Senator from Texas (Mr. YARBOROUGH) which would permit foundation grants to organizations such as the League of Women Voters to carry on broadly based, nonpartisan, voter education and registration programs. The Fannin amendment would prohibit these activities by the League of Women Voters. Clearly, this is not the will of the Senate, but it would be a side effect, perhaps inadvertent, of the Fannin amendment.

The central issue, the intent of this amendment, is to put organized labor at a disadvantage vis-a-vis corporations with respect to political activities. Again, as the Senator from Minnesota has made clear, the present law is evenhanded in this regard. Under the Federal Corrupt Practices Act, which is on the law books and has been for many years, unions and corporations are treated identically. Both are prohibited from making direct contributions to candidates for public office. Both are permitted to collect and distribute voluntary political contributions. Unions are permitted to use union funds to provide political information to their members and to conduct nonpartisan activities such as voter registration drives. Corporations are permitted to deduct expenditures for the same kinds of activities. They may deduct the expenses of advertising their views on "financial, social, and other subjects of a general nature," and of encouraging their employees to register and vote and contribute to the party of their choice.

In short, under the present law, the criminal code prohibits the same activities by both unions and corporations. Corporations are allowed to deduct expenses for the very same political activities that labor unions are allowed to pursue with tax-exempt funds.

As I said when I commenced, it is clear to me—and it is even now more abundantly clear, after listening to the Senator from Minnesota in his exposition of his arguments—that the intention and the effect of this amendment is to create an inequity in the law where none now exists. For this reason, I shall cast my vote in opposition to the Fannin amendment.

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

Mr. MONDALE. I shall yield in a moment.

I thank the Senator from Missouri for his comments. I think his comments are accurate, in order, and help expose the basic unsoundness of the proposed amendment.

I yield to the Senator from Florida for a question.

Mr. GURNEY. As I understand from the colloquy that has preceded, the Senator from Minnesota does not support the Fannin amendment; but, as I understand from what he has said, he does support the Talmadge amendment and will vote for it. Is that true?

Mr. MONDALE. I have been addressing my remarks to the amendment of the Senator from Arizona. I have not commented on the other issue.

Mr. GURNEY. But, as I understand the Senator's proposition, the present law provides that labor unions cannot contribute to candidates for Federal office, and of course this is what the Talmadge amendment simply says, except that it does define, among contributions, property of value. So I assume that the Senator from Minnesota will vote for the Talmadge amendment, and I certainly hope he will.

Mr. MONDALE. I thank the Senator from Florida.

Mr. President, a comment was made earlier about the vast amount of funds which are contributed to candidates for Federal office. I believe the comment was made that half the dues which are paid into unions could be eliminated if it were not for these tremendous campaign contributions by union members. I see in the Chamber the Senator from Tennessee, one of the Nation's experts on the issue of election reform.

We have obtained authoritative figures on the 1956 elections. I believe these figures were developed by the Senator from Tennessee in hearings. It shows that 12 families and the officers of 225 of the largest corporations made contributions of $500 or more that totaled $3 million; union officials together contributed $19,000 and all union members contributing voluntarily in this country made contributions of only $1 million or one-third of the total contributed by the wealthy individuals mentioned above.

It is illegal and a felony for a union to contribute to a candidate from union treasury funds in a Federal election. The only funds that can be contributed are those that are contributed voluntarily in a Federal election. The other statements we have heard to the contrary are false.

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

Mr. MONDALE. I yield.

Mr. GRIFFIN. Does the Senator know if there have been any convictions under the Federal Corrupt Practices Act as far as unions violating that provision?

Mr. MONDALE. I am not an expert on the Federal Corrupt Practices Act. The same question could be asked about corporate contributions. There is a case pending now relating to labor unions.

Mr. GRIFFIN. It is my understanding that although that law has been on the books for a good many years, there has never been any conviction under it.

Would the Senator answer this question? Under the Federal Corrupt Practices Act, a labor organization is prohibited from making contributions to a candidate for Federal office. Suppose the union makes a contribution to the Americans for Democratic Action and the Americans for Democratic Action make contributions to a candidate for Federal office? How about that?

Mr. MONDALE. Well, it is my opinion, and it always has been my opinion that when a law prohibits something, one cannot do indirectly what he is prohibited from doing directly.

While I am not an expert as to what the law might be in every instance in connection with the Federal Corrupt Practices Act, where it relates to business corporations or unions, both of which are prohibited now from making such contributions, it has been my clear experience and the experience of everyone that I have talked that unions do not contribute out of their treasuries to certain campaigns directly or indirectly.

Mr. GRIFFIN. So that if at some time there were an amendment which made it clear that the contributions out of union treasuries to an organization such as the ADA, which in turn made contributions to candidates for political office, would be an illegal act, would the Senator support me in that?

Mr. MONDALE. I think that is nullity. The only reason that an amendment would be raised would be to correct a situation that does not now exist.

If we are going to propose such an amendment, then I would say in fairness the same amendment should apply to business corporations as well. But in any event the amendment before us today does not deal with prohibition of union treasury money to candidates because that is prohibited now. We are talking about an amendment that goes far beyond that, one that would prohibit any union from even advising members whether it favors or opposes a candidate, a political party or the use of its resources to encourage people to register and vote.

We have never had an amendment since I have been in the Senate that has sought to go as far as this one. In my opinion, it goes so far as to violate the right of free speech protection under the first amendment.

Several Senators address the Chair.

Mr. MONDALE. I yield to the Senator from Kansas.

Mr. DOLE. In relation to the Senator's statement with respect to the right of free speech what about those whose dues go to oppose a candidate that they are supporting?

I would call the attention of the Senator to a statement made by Mr. Joe Rauh who immediately was very active in connection with the Haynsworth nomination where he said:

> The only funds available to the union are those that come from dues, for the purpose of buying radio time, television time, and newspaper advertising. The small amount that has been collected as voluntary dollars has all gone as very small contributions to the candidates . . . when he (a union member) pays his dues, he had paid for his political action.

In 1961 Justice Hugo Black of the Supreme court wrote:

> There can be no doubt that the federally-sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and turns it over to others who spend a substantial part of the funds so-received in efforts to thwart the political, economic and ideological aims of those whose money has been forced from them under authority of law.

What about the first amendment as it applies to dues spent against a member's wishes? What about the question of whether these dues are voluntarily contributed?

Mr. MONDALE. The law is clear on that. In Federal elections unions may not use treasury money to support or oppose any candidate. They continue to have the right to speak out freely on issues affecting them. For example, under rulings of the Internal Revenue Service, business corporations have the broad power to spend money and deduct it as a legal necessary business expense, to lobby, to educate, to obtain a tax deduction for propaganda promoting corporation view on economic, social, political, or other subjects of a general nature, or to conduct educational campaigns, and they are tax deductibles as long as they do not discuss specific legislation or candidates.

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

Mr. MONDALE. I yield.

Mr. PACKWOOD. Mr. President, I am still confused by the Senator's position. Is the Senator in favor or opposed to the use of the union treasury—not voluntary contributions but the union treasury—for partisan political objectives?

Mr. MONDALE. I do not understand why the Senator would be confused. The law makes it illegal now. We are talking about the Fannin amendment which would prohibit unions and every other tax exempt organization——

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

Mr. PACKWOOD. I thought we were talking about the Talmadge amendment.

Mr. MONDALE. No.

Mr. PACKWOOD. I would like to ask my question. Does the Senator support the present law which the Senator alleges prohibits the unions giving money for partisan political objectives?

Mr. MONDALE. I do not allege it. I state it.

Mr. PACKWOOD. The Senator supports it?

Mr. MONDALE. Yes. I do not understand why we want to talk about everything except the Fannin amendment.

Mr. FANNIN. Let us talk about it.

Mr. MONDALE. That is what I would like to talk about.

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

Mr. MONDALE. I yield.

Mr. FANNIN. Mr. President, on November 17 I contacted the Internal Revenue Service and asked the very question which is being debated at the present time. I am going to place this reply in the RECORD. It states:

> You indicated it is your understanding that there are no specific provisions in the Internal Revenue Code or in the legislative history of section 501(c)(5) warranting this special treatment for labor organizations in regard to political activities. You suggest that we review this subject to determine whether this position should be modified.
>
> Answer: Paragraph C–5 is the only one of the 17 paragraphs of that section that contains no definition, limitation, or prohibition. Consequently, they are in a special statute.

Mr. President, I shall put this material in the RECORD.

Mr. MONDALE. Mr. President, if the amendment of the Senator were agreed to we would not need any regulations because the union could not do anything at all, nor could the League of Women Voters or the Girl Scouts, for that matter. They could not talk to the membership or indicate to the members who they oppose or who they support. They could not encourage the mothers of Girl Scouts to register and participate in an election. They would be prohibited under the Fannin amendment.

Mr. President, not only is it violative of the first amendment, but it is the most far-reaching amendment I have seen to interfere with one of the healthiest things going on in this country, expanding the voter rights. This does not tell them how to vote, but is for voter participation. I thought we were in favor of that. I do not understand the great fear that some seem to have about people registering and voting. I do not understand why it is necessary for the Senator from Texas (Mr. YARBOROUGH), the Senator from Pennsylvania (Mr. SCOTT) who joined the other day to strike out a provision prohibiting private foundations from registering people.

But it was in the committee report and it was necessary to bring up an amendment on it, and we won the amendment. It is now possible for private citizens to participate in the registering of voting activities, unless the Fannin amendment is adopted; and if it is adopted, we will be right back where we were before the Yarborough-Scott amendment passed. We will have to prohibit any tax-exempt organization from even encouraging anyone to exercise his rights as a citizen to register and to vote. I cannot believe that that is good public policy.

Mr. DOLE. Will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. DOLE. We have been discussing rights under the first amendment. I am reminded of the decision written by Justice of the Supreme Court Douglas, who is known by some in this Chamber, a decision rendered in 1961. Let me read briefly what he said:

> The collection of dues for paying the costs of collective bargaining of which each member is a beneficiary is one thing. If, however, dues are used, or assessments are made, to promote or oppose birth control, to repeal or increase the taxes on cosmetics, to promote or oppose the admission of Red China into the United Nations, and the like, then the group compels an individual to support with his money causes beyond what gave rise to the need for group action.
>
> I think the same must be said when union dues or assessments are used to elect a Governor, a Congressman, a Senator, or a President. It may be said that the election of a Franklin D. Roosevelt rather than a Calvin Coolidge might be the best possible way to serve the cause of collective bargaining. But even such a selective use of union funds for political purposes subordinates the individual's First Amendment rights to the views of the majority. I do not see how that can be done, even though the objector retains his rights to campaign, to speak, to vote as he chooses. For when union funds are used for that purpose, the individual is required to finance political projects aaginst which he may be in rebellion.

The Senator from Minnesota has been talking about the first amendment and about the rights of those who may publicly endorse or oppose a political candidate.

But, what about the rights of the minority? In many cases, their money is taken and used for political purposes for a political candidate they do not wish to support. What about the first amendment rights of those since the Senator is talking so loudly about the first amendment.

Mr. MONDALE. Mr. President, this is the sixth time I have said this, but I will repeat it. It is illegal, it is a felony, to use compulsorily collected union dues to support any Federal candidate for any election.

Justice Douglas also stated in the Mitchell case—I do not happen to have the citation here—but he said it would violate the first amendment to the Constitution to deny a union the right to communicate to its own membership in its union newspapers on the key issues affecting political campaigns, including endorsing or opposing candidates. I do not have the specific language, but that is the gist of it. That is exactly what the Fannin amendment seeks to do.

Mr. DOLE. Does the Senator believe that a union member, whether Democrat or Republican, should have his dues used for a political purpose he opposes—let us be practical about it—what about his rights? Should he have the right to contribute or not contribute to a candidate?

Mr. MONDALE. Present law prohibits the right of a union to use compulsory collected dues to support a Federal candidate. The implication in the statement of the Senator from Kansas is that there are some unions that are resorting to a felony in making contributions, nevertheless.

If that is correct, then the Senator should report them to the Department of Justice. If I may say so, this discussion has absolutely nothing to do with the Fannin amendment. We are talking about an amendment that would prohibit—as I have said many times—the right to register and vote, and the right of a union, or the League of Women Voters, or any other organization to communicate to its members on behalf of matters opposing or supporting a candidate, or in support of or opposing any political party. If they do that, their right to a tax exemption status would be lost.

Mr. DOLE. There are the Talmadge and the Fannin amendments on this—is there a Mondale amendment?

Mr. MONDALE. I do not have an amendment.

Mr. DOLE. But if the Senator should submit one——

Mr. MONDALE. For a change.

Mr. DOLE. Is the Senator saying in effect, then, that he concurs in the thought that if, say, I am a member of a union, that my dues should not be extracted to support some candidate if I do not wish to support that candidate? Is that correct?

Mr. MONDALE. Let me make it absolutely clear that something that I thought I had. I am opposing the Fannin amendment which not only leads to the laws that makes a felony out of a union business agent who contributes union-owned dollars to a Federal candidate but,

in addition, prohibits a union from opposing or supporting a candidate for any office, or opposing or supporting a political party or even seeking to register its members. That is what we are talking about. That is what is before the Senate now.

Mr. DOLE. Well, along this line of colloquy, what about unions subscribing to section 501(c)3, which applies to corporations, community chests, and foundations organized for religious charitable purposes? Why not amend that section to include labor unions? That section says clearly certain things can be done but if money is used for partisan political purposes, the tax exempt status is lost.

Certainly, the Senator from Minnesota would not object to including labor unions in section 501(c)3, would he?

Mr. MONDALE. If I may respond to the Senator from Kansas in this way: I took an oath to uphold the law when I came to the Senate. It should be enforced. Among the laws we have, there is a law that prohibits unions from contributing treasury money. I do not know why, for example, the Senator from Kansas, the National Right to Work Committee, and others, continue to pursue their assertions that unions are making illegal contributions.

Mr. DOLE. They are being made to some committee.

Mr. MONDALE. Does the Senator have knowledge of such an event?

Mr. FANNIN. If the Senator will allow me to interject there, I can give him all the information regarding it he wants.

Mr. MONDALE. Would the Senator supply it, because I do not have it.

Mr. FANNIN. Certainly I will.

Mr. MONDALE. Very well.

Mr. FANNIN. Let me read it to the Senator. I cite the oral argument of one Joe Rauh, an attorney for the United Auto Workers, who told the Supreme Court—here is the excerpt:

Mr. RAUH. We have never had the type of funds on voluntary dollars—

Justice REED. You can't get as much from voluntary dollars as you can from dues?

Mr. RAUH. Well, sir, a union man thinks he has paid, when he has paid his dues, he thinks he has paid for bargaining, for legislation, and for political activity. He doesn't feel he should pay a second time for political activity. That is why it is so hard to raise voluntary contributions . . . When he pays his dues, he has paid for his political action.

This was stated before the Supreme Court of the United States.

Mr. MONDALE. In that case, it is entirely consistent with what I am talking about.

Mr. FANNIN. It certainly is not.

Mr. MONDALE. It does not say that any union was contributing treasury money to a candidate. It says it is hard to raise money.

Mr. FANNIN. He said they have spent it for that purpose. It is very clear that they would not get voluntary dollars.

Mr. MONDALE. That is not the way I understand it.

Mr. FANNIN. That is what it says here, if the Senator wishes to read it.

Mr. MONDALE. It says that it is hard to raise voluntary contributions.

Mr. DOLE. Will the Senator from Minnesota yield further?

Mr. MONDALE. I yield.

Mr. DOLE. There has been discussion in this Chamber about that during the Haynsworth debate. I do not wish to go back to that discussion, but there was discussion about contributions from labor going to a candidate and a Member of this body. There have been all kinds of figures mentioned of $50,000, $60,000, $70,000, or more. The contributions may have gone to some committee. But on the point raised by the Senator from Arizona (Mr. FANNIN), let us be even-handed about it, let us treat business and labor alike. Let us treat both parties alike.

Mr. MONDALE. Let me say that I have been in politics for 20 years. I ran for the U.S. Senate and I have never received one dime as a campaign contribution from a union. I do not know of anybody who has. What is more, the whole subject is irrelevant to the Fannin amendment that goes far beyond that issue. I can understand why the proponents of the Fannin amendment would want to change the subject——

Mr. DOLE. Will the Senator seriously say they do not make political contributions?

Mr. MONDALE. No; not to Federal candidates. That is correct.

Mr. DOLE. Never have?

Mr. MONDALE. Well, I am not a member of the FBI or the Justice Department. All I know is from my own personal experience. I believe that what we are talking about now is irrelevant. If the Senator wants to continue talking about it, that is all right with me, but it is not the issue of the Fannin amendment.

Mr. DOLE. Some of us talk about it, and others get the money.

Mr. President, the citizens of my State, like those in the other 49 States, I believe, want a system of tax laws which distributes the tax burden as fairly as possible on all groups in our society. Several editors in Kansas and many of my constituents have called attention to a glaring inequity in present tax law—a tax loophole which should challenge the conscience of every Member of this body. And this inequity is not corrected by the bill as it is presently written.

This loophole results from a unique provision in the Tax Code which allows a certain few specially privileged tax-exempt organizations, primarily labor unions, to spend their exempt income for partisan political purposes, while denying that privilege to all other tax-exempt organizations. This is precisely the type of tax favoritism which I believe our constituents expect us to eliminate in this bill. I recognize that this is a delicate question for any Member of this body who may rely on the expenditure of tax-exempt union funds as an important, and perhaps essential source of his own campaign financing. Those who have recently evidenced new sensitivity about the ethics of public officials now have a rare opportunity to demonstrate their consistency. Surely those whose campaigns benefit enormously from funds channeled through this special tax loophole will agree that ethics call for applying the same rules to tax-exempt labor unions as to all other exempt organizations.

The amendment offered by the Senator from Arizona would deal with this question in complete fairness and impartiality. It simply applies across the board the same rules for all organizations. The Senate Finance Committee, in its report, acknowledged that it is already "congressional policy" to prevent the use of "tax-exempt or tax-deductible funds" to aid the campaign of candidates for public office. The Fannin amendment applies that policy to everyone, without fear or favor.

One of the many fine newspapers in our state, the Emporia Gazette—whose publisher is the noted journalist, W. L. White—commented editorially on the matter in these words:

The Senate Finance Committee last week rejected an amendment to the tax reform bill which would have denied "tax exemptions to labor unions engaging in partisan political activities."

Some unions have billions of dollars invested in unrelated businesses and spend large sums in support of political candidates. The money from the investments come from dues paid by workers. Big Labor has long been (and still is) exempt from some federal taxes. The Internal Revenue Service has ruled that "unlike other exempt organizations a union does not lose its tax exemptions because it engages in political activities."

Most other tax-exempt organizations are prohibited from using their funds for political programs, and properly so. But a double standard in the present tax laws permits unions to collect from millions of workers and spend the money for political projects. In some cases union money is spent in support of candidates without the consent—or even the knowledge—of the men who paid the dues.

The move to close the tax loophole for unions failed by a single vote. The amendment was rejected by an eight-to-eight tie vote in the Senate Finance Commitee. (Tie votes kill amendments in committee.)

Sen. Paul Fannin of Arizona offered the amendment. When it was defeated in committee, he said the amendment will be proposed again when the bill reaches the Senate floor. He plans to call for a roll-call vote to "give the American people an opportunity to determine exactly how many Senators are beholden to union czars" . . .

Union leaders have in the past supported their favorite political candidates and they will do so in the future. What these leaders do with union money is a private matter. But it seems unfair for these funds to be exempted from federal taxes.

The Atchison, Kans., Globe made this comment in its editorial column:

The AFL–CIO applauds when churches now under fire for not paying taxes on unrelated business enterprises are included in the new reform proposals. The AFL–CIO is spending large sums lobbying for the passage of this kind of reform. But it shouts in outraged indignation when it is suggested that what's sauce for the goose should be sauce for the gander.

Labor went all-out for Hubert Humphrey and against Richard Nixon in 1968, as it goes out every two years against almost every Republican now holding a seat in Congress. And if the unions are included in the tax reform measures, candidates independent of labor will not have to face the massed financial power of the unions in the future. This should embolden the timid on Capitol Hill.

Some Members have suggested that this amendment is unnecessary because it duplicates the Federal Corrupt Practices Act. This is not the case.

In the first place, the FPCA, even if it were enforced against labor unions, applies only to contributions to campaigns for Federal office, not those to State and local parties and candidates. The authoritative publication, Congressional Quarterly, points out that State political committees are a frequent conduit for transferring money to individual candidates for national office. Comments Congressional Quarterly:

> This practice is traditional for labor union political funds.

Second, even at the national level, the FCPA is "a law filled with loopholes," according to Congressional Quarterly.

Third, even if the FCPA were a uniformly enforced law, Federal tax law should be consistent with it by denying tax exemption to organizations which use their income for politics. The Internal Revenue Service asserted in a letter dated November 17, 1969, that there is a basis in law for its "special treatment for labor organizations in regard to political activities." IRS continues:

> The inclusion of various definitions, limitations, and prohibitions in the other paragraphs (which list sixteen categories of exempt organizations) of Section 501(c) evidences that in enacting the section Congress gave attention to such matters, yet did not apply any restrictions to labor organizations.

There is no reason why labor unions—or any other specially privileged group—should be permitted to pour millions of tax-exempt dues dollars—most of it collected under compulsion—into campaigns of political candidates and parties selected by the union's officials.

Some defenders of union political practices contend that all political spending by union officials is done with funds voluntarily contributed for that purpose. While the evidence is overwhelming that this is not the case, those who argue that only nonexempt voluntarily contributed funds are used by unions for politics have nothing to fear. This bill will have no effect whatsoever on that kind of political activity.

Mr. President, the amendment offered by Senator FANNIN is fair, it is nondiscriminatory, and it corrects a major inconsistency in present tax law.

Mr. MONDALE. Well, certainly that is a tough proposition.

I yield to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I have had experience in elections in my State seven different times—in seven different State of Texas elections. We have criminal penalties against any corporation or any labor union contributing to a political campaign. The climate in Texas is such that candidates are watched like a hawk watches a chicken. Candidates are investigated time after time. The attorney general investigates, and all candidates are watched. I had a screening process set up to make certain that no labor union or corporation contributed to my campaign. Since I came to the Senate I have added another duty to those already in that screening process; namely, to see to it that no Federal employee contributed to my campaign. It is all right for a Federal employee to contribute to a State or Federal campaign, but not to a congressional campaign.

We have received small checks from time to time, never over $50, from some small family corporations or small labor unions that did not know the rules, and we promptly sent them back. They were checks in small amounts from little family corporations or little unions that had no legal advice and had sent them in by mistake. The screening committee has had a certified public accountant watching them.

We have never had any big unions send contributions, because they have their own lawyers, and the lawyers watch them in my State, because they would be indicted and placed in the penitentiary for violating the law.

As I said, I have been involved in seven campaigns in my State, one for attorney general, three for Governor, and three for the Senate. So any labor union that contributes funds for that purpose in my State is going to face the penitentiary if it contributes to a political campaign. So the unions do not even try.

Mr. PACKWOOD. Mr. President, I wonder if, before I start, I may ask the Senator from Georgia a question.

Mr. TALMADGE. Certainly.

Mr. President, if the Senator from Oregon will yield, I ask for the yeas and nays on the substitute amendment.

The yeas and nays were ordered.

Mr. TALMADGE. Now I yield for a question.

Mr. PACKWOOD. Is there anything in the Senator's amendments that in any way strikes at, prohibits, hits at, or has anything to do with voter registration?

Mr. TALMADGE. No.

Mr. PACKWOOD. I wanted to make that clear because of the first amendment diatribe we have been hearing. This has nothing to do with the first amendment. Whether we adopt the Talmadge amendment, the Fannin amendment, or any other amendment, we are not talking about shutting off anybody's right of free speech. What we are talking about is making the organization taxable if it uses its funds for partisan political purposes—not shutting it off, not even regulating it; we are just saying that if they do it in a partisan, political vein, they are going to be taxed.

From having been in politics and in the practice of labor relations in Oregon, I think I know something about the role of business and other organizations in Portland, Oreg. When one talks about any organization—I do not care whether it is the American Medical Association or a union—I am talking in terms of contributions which it can give to a political candidate or a party—money, property, services, or manpower paid for by the organization, for brief times close to the election time, and before that for substantially longer periods. It is done by corporations, by associations, and by unions. There is not a Senator who does not know it is done. Anybody who has been in politics for 5 years at the State level, let alone elected to the United States Senate, who can in all honesty say he has never seen a corporation or union or association give personnel or other contribution to a political campaign is speaking, I think, incredibly. He either is naive or absolutely must have blinders on.

So let us talk about organizations generally. There are three kinds of contributions: money, services, and property.

Let us get to the unions and their types of contributions. They are basically of two kinds, voluntary, what they call COPE—the Committee on Political Education—the old Political Education Committee of 15 or 20 years ago. In theory, those contributions are voluntary—in theory. I am not going to quarrel with whether they are or not. These are extra amounts paid by members, and a member does not have to pay it. With a little check on a sheet once a year, he can say whether he wants to give to the committee. He cannot be compelled to if he does not, and he cannot lose his job as a result. But the union cannot take it out of his dues.

They tried a gimmick once, where they had $10 dues, but they said, "Those who want to give to the Political Action Committee can drop it to $9." But that was stricken down.

So let us talk about contributions to the political education groups, the amount that comes from so-called voluntary contributions. Again, I am not going to quarrel with whether they are voluntary or not.

The Senator from Minnesota (Mr. MONDALE) has indicated that, in his estimate, unions do not contribute to political campaigns. In my experience, again in politics, and also in the practice of labor relations, that is not true. Unions do contribute extraordinarily in the form of property. They do not actually give property. They give the use of their buildings, trucks, or telephones to both parties. These are not things given only to the Democratic Party; but the unions endorse candidates of parties.

Almost any night in a political campaign one can go to a labor temple and see the supporters of a candidate working at telephone banks, paid for out of the fees, assessments, and dues. That is a contribution from the union out of the dues that have been paid.

Now let us go to the business agents. Mostly in September and October, but in some cases prior to that, a part of their obligation is partisan support and activity for the candidate the union has endorsed. So they spend a lot of time on registration drives that might benefit a political candidate, building a registration drive that would benefit that candidate. They spend a great amount of time at COPE headquarters, with women manning the telephones by the evening, and the time organized by the union agents who have never once left union payroll during the campaign. That is a contribution of service. There is no other way one can define it. That may or may not be a violation of the Corrupt Practices Act, but it is done. It is done with the help of corporations and associations.

When I look at the amendment of the Senator from Georgia (Mr. TALMADGE)—and I am going to limit my comments to

that amendment until we see whether it is adopted—it is not going to touch voter registration. The Senator from Georgia just answered my question with respect to that. There is nothing in the amendment that has to do with voter registration. So any Senator who uses the excuse of voter registration to vote against the amendment will have to find another excuse. This vote will not affect voter registration, let alone the League of Women Voters or the Junior Chamber of Commerce. Let us clear that fog from the issue before we vote on the amendment.

Second, there is nothing in the amendment that prohibits a union from using its assessments and dues to contact its own members for partisan political purposes at its own headquarters. The union can call its own members and tell them to vote for PACKWOOD or TALMADGE. That is not precluded, because the Senator feels a union ought to have the right to contact its own members for its own political partisan goals.

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

Mr. PACKWOOD. I yield.

Mr. TALMADGE. Not only a union, but any other tax-exempt organization.

Mr. PACKWOOD. Absolutely.

What I wanted to make clear when I questioned the Senator further was that a union cannot use its dues and assessments and initiation fees for union members at union expense to contact the broad spectrum of the public. Do we agree to that?

Mr. TALMADGE. Yes, we do.

Mr. PACKWOOD. So I would say that what we are voting on with respect to the Senator's amendment is as follows: One, we are not putting any limit on free speech; let us be clear about that. Second, we are not saying unions cannot use voluntary contributions from COPE for support and cash contributions to political campaigns. We are not saying a union cannot use its own dues and assessments to contact its own members for political partisan reasons. We are simply saying that union dues and assessments cannot be used.

We are simply saying that a union cannot use the dues and assessments that are paid by a member—because he has to belong to the union and has no choice but to give them to the union—for any other purpose than a political public purpose that a union can support. They cannot be used for any other purpose.

For that reason, I intend to support the Talmadge amendment in the nature of a substitute.

Mr. CURTIS. Mr. President, the issue can be simply stated. The Corrupt Practices Act deals with offenses and punishment. It is the criminal code we are talking about—the taxation of tax-exempt organizations.

It is a criminal code. Here we are talking about taxation for tax-exempt organizations.

Is there a Senator here who can spend his own money to get reelected, and get a deduction for tax purposes? He cannot. Is there anyone who can make a contribution for political purposes, and deduct it from his taxes as a business expense? There is not. Political expenses are paid after taxes. That is the rule applied to the rank and file in America. Why on earth should we let tax-exempt organizations get into the field of politics at all? Everyone else has to pay for his politics after taxes.

As I read the Talmadge substitute, it would permit labor organizations to gather up all their agents and party workers throughout the United States, and send them into a particular congressional district or a State, assign them a little bit of union work, but turn them loose to defeat or elect a candidate. If we pass the Talmadge amendment, we have made that the law.

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

Mr. CURTIS. I yield.

Mr. TALMADGE. I think the Senator has misconstrued my amendment.

Mr. CURTIS. I beg the Senator's pardon.

Mr. TALMADGE. They could only utilize their activity in mobilizing the membership of their own organization, not others.

Mr. CURTIS. But the Senator defines that which is prohibited as "cash or its equivalent."

Mr. TALMADGE. Or any property of ascertainable value.

Mr. CURTIS. Yes. And if there is a mixture, with some union duties to perform, they travel to that State or congressional district at union expense, stay at the hotels at union expense, and so on; and there is no one here so naive as not to know that when you move a thousand union workers into a State or a district, they can wield considerable political power; and you cannot put a monetary value on it.

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

Mr. CURTIS. I yield.

Mr. TALMADGE. Assuming the Senator were correct, and the unions sent a multitude of people into a congressional district or a State. That effort can be utilized only to mobilize their own membership. If they went beyond that, it would be a violation of my amendment.

Mr. CURTIS. I think not. The Senator's own language prohibits certain expenditures from dues and assessments. Then it goes on to describe that they must be in cash or equivalent. If you cannot translate them into equivalent cash, which in a mixture, you cannot, you have made them lawful.

Mr. TALMADGE. Will the Senator yield?

Mr. CURTIS. I yield.

Mr. TALMADGE. I quote the language of my amendment:

> A contribution shall not be deemed to occur where the principal character of an activity in support of a political party or a political candidate constitutes mobilizing membership of the organization for such purpose, as distinguished from the contribution of cash or its equivalent or property which has an ascertainable fair market value.

I would think that if unions sent a multitude of agents to a particular area to campaign, that would have an ascertainable market value, and would be prohibited.

Mr. CURTIS. The language is defective in many other instances. It says "to mobilize the membership." It does not say that the membership dues may be used to inform the members how someone voted, or how they stand, purely for purposes of advancing the cause of union labor. It says you can send them in there and mobilize them in a campaign.

As I said a moment ago, that is why I shall vote against the Talmadge substitute and for the Fannin amendment; for most Americans have to put their money into politics after taxes. I believe we do the tax exempt organizations a disservice by letting them have any part in politics.

Mr. President, I totally disagree with all this talk about the first amendment. The first amendment gives the right to people to say what they please. What is at issue here is, Are they going to use tax-exempt money to broadcast, either by the printed page, the radio, the television, or somebody's car?

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

Mr. CURTIS. I yield.

Mr. TALMADGE. Broadcasting would have an ascertainable market value, and would be precluded, except to members of the organization themselves.

Mr. CURTIS. Well, as a practical matter, the Senator knows that his amendment would have to be treated in this manner: That if they wrote a check or gave a thousand dollars' worth of printing, it would be covered; but he also has to know that if they use their time strictly, if it is a part of the time to mobilize the members—and his language does not say to inform the membership on issues; it says to mobilize them—that is one of the big jobs in a campaign, to mobilize its workers.

I have no illusions about how this amendment would turn out. I have no illusions at all. The powerful unions do not like the Fannin amendment. They do not like Mr. Haynsworth, either.

Mr. YARBOROUGH. Mr. President, it seems to me that the thrust of both these amendments is at voter registration, and voter participation. It seems to me the Fannin amendment is directly designed to limit voter participation, because on page 2, line 7, it says they shall not use these moneys to carry on any voter registration.

The amendment agreed to last week, cosponsored by the Senator from Pennsylvania and me, was designed to further voter registration. I wish to refer to the Gallup poll printed in the Washington Post yesterday, Sunday, December 7, to show the need for voter registration activities.

We all know of the low voter registration and the low voter participation in America as compared to other democracies of the world. West Germany votes 80 percent of the qualified electorate; Great Britain 76 percent, and our country less than 70 percent.

There was great interest in the Presidential campaign of 1960 between Kennedy and Nixon in Texas in that election. Due to the great interest and the television debates, there was a relatively lower voter participation—63 percent of the electorate voted. In my State, only 43 percent voted, because we then had a poll tax.

In 1968 we had the highest registration we had ever had in my State—6

million qualified adults, 4 million registered. We had knocked the poll tax out by then. We had a very spirited gubernatorial campaign in both parties, and the total vote—that is, in both the Democratic and Republican Parties, was only 1,500,000, out of 4 million eligible voters.

The problem is first to get voters registered. We can get them registered, but we already have restrictions. They make it a felony in my State for a member of a labor union to contribute to the activity officially.

I know that many other Senators have that same experience. As proud and, perhaps, as egotistical as we are to be Senators, more voters register to vote in a gubernatorial campaign than in a senatorial campaign.

I know, because I campaigned three times for the Senate and three times for the governorship.

Very few people register to vote in this country. The League of Women Voters is working to increase registration. These amendments would keep these people from registering and from voting.

Mr. President, I read from an article on the Gallup poll. The headline is, "Laws on Voter Registration Hurt Democrats, Help GOP." It is from Princeton, N.J., and is written by George Gallup. It reads:

One out of every four adults in the United States is not registered as a voter, a Gallup Poll survey reveals.

In numbers this represents an estimated 29 million potential voters who are disenfranchised because they are unable to meet residence requirements imposed by the various States, or because they have not taken the initiative to see that their names are placed in the registration books.

Democrats suffer more than do Republicans from low voter registration. When a sample of the 29 million nonregistered voters is examined, twice as many are found to have Democratic leanings as Republicans.

That is because they have less money. They are laborers. They are more mobile. They move from State to State. There are many reasons for that. However, two of them do not register for every suburban Republican that registers. That does not concern a party sense but a population sense. I am talking about trying to get people to register who are mobile and who are not affluent.

I continue to read from the article:

A total of 3,127 adults were interviewed in person during the period October 17 to November 3 and were asked this question—

I point out that this was a personal interview. It was not a telephone sampling. Some of the polls inform us that they are the result of a telephone sampling.

They were asked this question:

Is your name now recorded in the registration book of the precinct or election district where you now live?

The following table shows the percentage of adults not registered, nationally and by key groups.

Unregistered adults

	Percent
National	25
Men	24
Women	26
21–29 years old	50
30–49 years old	24
50 and over	12
Own home	16
Rent	44

Since they rent, they are mobile. They move, and they do not get registered.

I continue to read from the article:

The above figures represent the most accurate registration figures for the nation. While some states try to keep lists up to date, the difficulty of removing the names of those who move, or die, is enormous.

It should be pointed out that in four states voting laws permit those under 21 to vote. In Georgia and Kentucky the age is 18; in Alaska, 19; and in Hawaii, 20. These small segments of the population are not covered in the above figures.

Mr. MONDALE. How often do the voters of Texas have to register in order to participate in the election?

Mr. YARBOROUGH. In my State the voters must register every single year. We have the most repressive voter registration law in the Union. They have to register every single year to vote in any kind of election—city, county, State, bond issues, school trustees, mayor—anything we can think of. If that voter is not registered every single year, he cannot vote.

He has to be registered to vote by the 31st day of next January or he cannot vote in the elections next November. He has to register before he knows who the candidates will be or what issues are involved. In the peak year, we had only two-thirds of the adults registered.

Mr. MONDALE. When was that registration law adopted?

Mr. YARBOROUGH. That registration law was adopted after the Federal court eliminated the poll tax. The establishment came back and gave them this voter registration law to take the place of the poll tax and keep them from voting.

Speaking of corporations and all their activities in political races. In some of my races for Governor, they emptied the corporation offices. They sent junior executives out to the counties. They sent out questionnaires. They sent them back to their home counties to work against me.

Does the Senator think they made those junior executives pay their expenses? That is listed as a business expense in the campaign against us.

And if they advanced fees to their lawyers, they paid them big enough fees so that the lawyers could pay their income taxes and then contribute to our candidates.

What labor union members honestly give is chicken feed compared with what the corporations do through subterfuge.

They are too smart to write a check on the corporation. They pay big fees to their lawyers and let them pay their income taxes and then contribute the rest to the campaign.

They put out their army of workers. They paralyzed the corporate structure of Houston for 2 weeks when I was running. They turned out the employees from a 32-floor office building. They send out the secretaries and the junior executives. They send them back to their home counties to work against me.

Mr. President, I continue to read from the article:

In 32 of the 50 states one year of residence is required before one can register and vote. In 15 states the requirement is 6 months; in two, 3 months. One state, Mississippi, has a requirement of 2 years.

The importance of mobility as a deterrent to registration is dramatically revealed in the figures for home owners versus renters, who change their place of residence frequently. Of all home owners, only 16 per cent do not have their names registered. Among renters the comparable figure is 44 per cent.

So, if we try to register voters and make this effort, these amendments would strike those efforts down. The Fannin amendment is directed against such efforts.

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

Mr. YARBOROUGH. I yield.

Mr. PACKWOOD. Mr. President, are we agreed that the Talmadge amendment would have no effect on voter registration?

Mr. YARBOROUGH. A businessman can get his people to vote. He can get them to go to a rally of the party.

Do not think for one moment that if someone else were to use those tactics, he would not have him hailed into court by the hair of his head.

Mr. MANSFIELD. Mr. President, I wonder if we could bring this debate to a head? I do not think there is much more we can learn. We have been told and retold this.

I think it is time to get to a vote. It is a very important matter on which people have had their minds made up.

Mr. TALMADGE. Mr. President, I am prepared to vote at any time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia as a substitute for the Fannin amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia (when his name was called). On this vote I have a live pair with the able senior Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. HOLLINGS (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withdraw my vote.

The assistant legislative clerk concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Montana (Mr. METCALF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. DOM-

INICK) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 25, nays 63, as follows:

[No. 192 Leg.]

YEAS—25

Allott	Hansen	Saxbe
Baker	Hruska	Smith, Maine
Bellmon	Jordan, Idaho	Sparkman
Byrd, Va.	Long	Spong
Cook	Miller	Talmadge
Cotton	Murphy	Thurmond
Dole	Packwood	Young, N. Dak.
Griffin	Pearson	
Gurney	Russell	

NAYS—63

Aiken	Gravel	Montoya
Bayh	Harris	Moss
Bennett	Hart	Muskie
Bible	Hartke	Nelson
Boggs	Hatfield	Pastore
Brooke	Holland	Pell
Burdick	Hughes	Percy
Case	Inouye	Prouty
Church	Jackson	Proxmire
Cooper	Javits	Randolph
Cranston	Jordan, N.C.	Ribicoff
Curtis	Kennedy	Schweiker
Dodd	Magnuson	Scott
Eagleton	Mansfield	Smith, Ill.
Eastland	Mathias	Stennis
Ervin	McCarthy	Tower
Fannin	McClellan	Tydings
Fong	McGee	Williams, N.J.
Fulbright	McGovern	Williams, Del.
Goodell	McIntyre	Yarborough
Gore	Mondale	Young, Ohio

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Byrd of West Virginia, against.
Hollings, for.

NOT VOTING—10

Allen	Ellender	Stevens
Anderson	Goldwater	Symington
Cannon	Metcalf	
Dominick	Mundt	

So Mr. TALMADGE's amendment was rejected.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now upon the amendment of the Senator from Arizona. On this question the yeas and nays have been ordered.

Mr. HOLLAND. Mr. President, has the time elapsed, or is the time under control?

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The time is not under control.

Mr. HOLLAND. Mr. President, I hope the amendment offered by the Senator from Arizona will be agreed to. I happen to know something about this matter from personal experience. I have run for State office about as many times as my distinguished friend from Texas, and I think on every occasion I was opposed by some of the labor leaders of the State, generally by most all of them.

At the same time, at every election I have been fortunate enough to receive the support of a large number of the members of those labor unions and I have received each time I ran dozens of letters—I think it would be hundreds, all told—from members complaining of the fact that their dues and contributions to their unions, of which they were members, were being used against my campaign, against my nomination or election, as the case might be, and they protested vigorously against that practice.

Mr. President, when we considered the repeal of the right-to-work amendment in 1966, I placed in the RECORD some 50 or 60 letters. I do not recall the exact number, but Senators can find them as a part of my remarks in the CONGRESSIONAL RECORD, volume 112, part 2, beginning at page 1463 and extending for 20 or 30 pages in that RECORD. I have not had time to read through all of those letters, but I have already found four of them complaining against the repeal of the right-to-work provision in the Taft-Hartley Act, because we have the right-to-work provision in Florida adopted by a majority vote of all our citizens in a general election.

In about four of those letters—and I have gone through about half of them—I find they complained that their contributions and dues were being used against their wishes by union leaders. That testimony is not from me. It is from the members of the unions in my State who were complaining that their money was being used by their leaders against their will, against their wishes, and against their candidates. Senators can find it in the RECORD if they wish to read it. I mentioned that there were more than four instances. I read about 25 of those letters hurriedly.

There were over 50, as I recall it, that I placed in the RECORD during debate at that time. The fact is, it is a well-known practice in my State. It is vicious practice which I think should be ended. It is a vicious practice which I hope will be ended by the adoption of the Fannin amendment.

I cannot speak for other Senators. I can speak only in the limited degree for my own State. I know that in the five general elections in which I have run for office in my State, as well in the primaries for those years, I have had that experience. It does not do any good to say that these things do not occur, when good men—many of them known to me—not just because they supported me but because they were my friends—write me and tell me these things contained in the letters. When the returns, for instance, come in from the area of Jacksonville, where the working people generally live, they show that I received more than my share of the votes of labor union members. When that kind of information comes to me in writing at every election, and in large numbers, I cannot ignore it.

It is a practice which does exist in my State, which generally speaking, is known for rather clean elections and for rather large participation in elections. We stopped the poll tax in its application in 1937 a long time before any Federal law on the subject was passed either by constitutional amendment or by unfortunate action of the Supreme Court.

In many ways we have tried to clean up elections in our State. I just want to say that has been my own personal experience and I would be derelict to fellow Senators if I did not say that right here on the floor of the Senate. Senators will find the list of 50 to 60 letters included in the other debate. Confessedly it had to do with the question of whether we should repeal the right-to-work provisions in the Taft-Hartley Act, and those were people writing against repeal and in favor of the continuance of the right-to-work amendment in our State constitution and its operation. They found occasion time after time, to say what I have just said to the Senate, that they knew that their dues were being spent for political purposes, against their wishes, against their own objectives and against own preferred candidates.

Now, Mr. President, that same experience, but in larger measure, has taken place in every race I have had and I want the record to show that that is the case.

I am not one of those who feel that men who belong to labor unions are willing blindly to do the will of their leaders who attempt to dictate to them in too many instances because I have found that the exact contrary is true, that they will not follow that dictation, that they will follow, instead, their own convictions.

I want the record to show that.

I shall vote for and strongly support the amendment offered by the distinguished Senator from Arizona.

Mr. MILLER. Mr. President, will the Senator from Arizona yield?

Mr. FANNIN. I yield.

Mr. MANSFIELD. Mr. President, would the Senator from Iowa consider the possibility of a time limitation?

Mr. FANNIN. The Senator from Iowa just wishes to take a couple of minutes and then I am ready to vote. I wish to use only 1 minute.

Mr. MANSFIELD. That is fine.

Mr. FANNIN. I do not want to delay the vote.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent, if there is no disagreement to the request, that there be a time limitation of 15 minutes on this amendment, with the time to be equally divided between the distinguished Senator from Arizona (Mr. FANNIN) and the chairman of the committee, the distinguished Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Who yields time?

Mr. FANNIN. Mr. President, I yield 4 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. MILLER. Mr. President, I invite the attention of my colleagues to part 6 of the hearings, particularly to page 5248 where colloquy occurred between a witness by the name of Harold Ketelhut, a member of the United Auto Workers International Union and myself, and I ask unanimous consent that the marked portions of the hearings be printed in the RECORD. There was a further witness before the committee by the name of Mrs.

J. M. Ford, a member of the ILU of Lawrence, Kans., and I ask unanimous consent that a portion of her testimony as designated on page 5255 be printed in the RECORD.

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

STATEMENT OF HAROLD KETELHUT, A MEMBER OF THE UNITED AUTO WORKERS INTERNATIONAL UNION, FREEPORT, ILL.

Senator MILLER. Mr. Chairman, I want to commend this witness for his courageous testimony. I am concerned about part of his testimony. Now, as I understand it, a great amount of political activities by the AFL–CIO are financed out of the funds of the committee on political education known as COPE. Do I understand correctly that the contributions made by union members to COPE, are voluntary?

Mr. KETELHUT. My experience with COPE is that they will offer you a lottery, a form of lottery ticket or a chance to win a television set and so on. You contribute x dollars by the number of chances you get. That is part of the money that goes into the political action, yes.

Senator MILLER. Of course, that would be a voluntary matter for a union member to buy some chances. He does not have to do that, does he?

Mr. KETELHUT. Well, another thing in my experience has been on the IAM staff for 6 years, every staff conference that I attended that was a head of an election, a national election or a big State election coming up, if it happened to be a national election I was asked to donate some dollars, and if I didn't I would not remain on the staff very long. If it was a State election I would attend the State labor convention and be told the same thing. It was voluntary to the extent that if you did not contribute your international office frowned upon you.

Senator MILLER. Well, take the rank and file who are not members of the staff, just somebody who has been in the union for 6 months. He does not have to pay money into COPE if he does not want to, does he?

Mr. KETELHUT. The UAW constitution provides—I did not bring it along but it provides—that if a member—right in our constitution—if a member objects to his money, money from his dues being spent politically, they will——

Senator MILLER. I am not talking about dues, though.

Mr. KETELHUT. About what?

Senator MILLER. I am not talking about dues. I am talking about contributions to COPE.

Mr. KETELHUT. Yes.

Senator MILLER. Because my understanding is that the financing of COPE does not come out of dues. It comes out of contributions or purchasing chances on lotteries and things like that.

Mr. KETELHUT. I would have to go along with you. I cannot question you on that. All I know is that with my experience that is the way I have been approached on it. Whether or not they get additional funds from the general treasury I do not know.

Senator MILLER. Forgetting about the Committee on Political Education funds, and assuming that contributions by individual members are voluntary—as I have long understood to be the case, let us turn our attention to union dues. You have testified that some part of the dues has been used for political purposes by some unions. I assume by political purposes you mean partisan purposes.

Mr. KETELHUT. Yes!

Senator MILLER. Can you tell us how?

Mr. KETELHUT. I will give you some example, since I have a few moments to refresh my memory. I recall that when I served on the IM staff of 1953 through 1958. Senator Douglas was our Senator from Illinois. At election time International would send out a man and he would have his car loaded down with printed campaign material for Mr. Douglas. This material would be distributed to the area Democratic headquarters in my district. This man would inform me that I should keep quiet and not tell everybody that he was doing this on union time as he was a staff member of the IM.

Senator MILLER. The point you make here is that union dues which are used to pay the salaries of staff members of the union were diluted to the extent that the staff member took time away from his staff duties with the union and participated in a partisan political campaign?

Mr. KETELHUT. That is right.

Senator MILLER. Can you tell us how long this particular staff member took off to engage in the partisan political campaign?

Mr. KETELHUT. At different times when this man came through my area on these political excursions, I would ask him to stay over and assist me on local union problems as he was also a capable negotiator. He told me that he could not offer any assistance because he was ordered to spend all his time on seeing that Mr. Douglas was reelected.

Senator MILLER. You have given us an example. Do you know of other examples?

Mr. KETELHUT. Yes I do. The machinist union, as an arm of the organization which they refer to the machinists union partisan political league. They would encourage local lodges to put on parties and dances, and furnish lunch and refreshments, which may cost a local $300, $400, or $500 out of its local treasury. Then a collection would be made amongst the union members at this party who were told that they were contributing to the machinists nonpartisan political league.

Senator MILLER. What you are saying then is that the financing of the so-called nonpartisan political league was handled through parties of this nature with the local union's treasury, which had been funded by union dues, being used to pay for the expense of the parties and the parties being used as a vehicle for raising "voluntary" contributions to the league.

Mr. KETELHUT. That is right.

Senator MILLER. Were the activities of the so-called nonpartisan league genuinely nonpartisan?

Mr. KETELHUT. Let me put it this way, that the nonpartisan slogan was to elect our friends—defeat our enemies.

Senator MILLER. That is an interesting slogan, but the real question is whether those designated as friends represented mostly or entirely the candidates of one political party.

Mr. KETELHUT. I would say that their activities, 98 percent of the time, supported the candidates of one party.

Senator MILLER. And which party?

Mr. KETELHUT. The Democratic Party.

Senator MILLER. Can you give us another example of how union dues were used for partisan political purposes?

Mr. KETELHUT. During the last presidential election when Vice President Humphrey held his parade in Chicago, the Local 765 of the UAW, of which I am a member, took two bus loads of members, paid for the loss of time from their jobs, and paid for the bus fares and meals and lodging to participate in the Humhprey program in Chicago. This was done by the sizable UAW local in Rockville, which had the funds to support it.

Senator MILLER. You are saying that these payments were made from the union treasury into which dues had been paid, and not from a fund which was supported by voluntary contributions.

Mr. KETELHUT. That is absolutely right. UAW locals cannot have funds other than from dues.

Senator MILLER. In other words, the entire union membership through their dues, really paid for the expenses of the bus loads of union members going to and from Chicago, remaining in Chicago over night, and the loss in wages incurred by their absences from their employment.

Mr. KETELHUT. That is right.

Senator MILLER. I have heard that in some cases a local union's treasury, funded by union dues, has been used to reimburse union members for taking time away from their employment to actively work in getting out the vote for candidates endorsed by the union in partisan political elections. Do you know of any such practices in your experience?

Mr. KETELHUT. Yes, I do. In Illinois, approximately I would say 1954 or 1955, somewhere in the State legislature election, we had a man that was endorsed by the international union office in Chicago, to run against the incumbent State legislator.

Senator MILLER. Where?

Mr. KETELHUT. In the Freeport, Ill., district. The international office in Chicago requested that our IAM local in Freeport support and assist this man in every way. The local set up a committee. The members of this committee took time off to check the voting record at the county court house in the district. As many of our members were scattered in two or three counties, it was necessary for the members of this committee to take time off from their employment to encourage members that were not registered to vote to become registered, and this same committee, for a few days before the election, made up car pools to contact members at their homes and to get them to vote. We had many night-shift people who could only be contacted in this way. The members of this committee were reimbursed by the local union for wages lost by their activities.

Senator MILLER. Are you saying that their activities were directed at the support of the partisan candidate endorsed by the international office in Chicago?

Mr. KETELHUT. That is right.

STATEMENT OF MRS. J. M. FORD, ILU MEMBER, LAWRENCE, KANS.

Senator MILLER. What local are you a part of?

Mrs. FORD. Local 605 of the Laborers' International Union of North America, located at Sun Flower, Kans.

Senator MILLER. Does this union have a union shop contract with the management?

Mrs. FORD. Yes, sir, it does.

Senator MILLER. In other words, you must belong to the union to hold your job?

Mrs. FORD. Yes sir.

Senator MILLER. And, of course, you pay dues to the union.

Mrs. FORD. Yes sir, I do, and it is deducted from my pay check.

Senator MILLER. Do I understand that part of these dues are used by the union for partisan political purposes?

Mrs. FORD. As far as I know. I have in my hand a copy of an article that was in the Johnson County Herald on March 12, 1969, referring to the contributions reported in last fall's gubernatorial campaign in Kansas.

Senator MILLER. I note that the article refers to an F. E. Black as having contributed $10,000 to the "Docking for Governor Club," and that Black is believed to be a leader in the AFL–CIO in Kansas. The article also lists other Docking contributors to include the Amalgamated Meat Cutters, the Communications Works of America, the International Brotherhood of Boiler Makers, and other unions. Is this the basis for your belief that some part of union dues has been used for partisan political purposes?

Mrs. FORD. Yes, sir, this is one of the reasons that I believe this. Another reason is that we working on a bill to put teeth into the Kansas right-to-work law, and we thought that had accomplished this because we had a good majority—76–40 in the legislature. Then Governor Docking vetoed it.

Senator MILLER. Is the main thrust of your

criticism your understanding that a part of your union dues, which you must pay in order to hold your job, is used for partisan political purposes?

Mrs. FORD. Only partially because there are millions of people in my shoes in the United States who are forced to support candidates whom they oppose just as I.

Senator MILLER. Thank you.

Mr. MILLER. Mr. President, the thrust of the Fannin amendment is to make clear that dues and assessments paid to any organization—I emphasize any organization—which is tax exempt cannot be used for purposes of supporting a particular political party or a particular candidate for public office.

This has nothing to do with voluntary assessments such as those that may be obtained through medical associations, such as those known as AMPAC or through the union association known as COPE, which is an AFL–CIO voluntary organization, or in the case of DRIVE, which is a comparable organization for the Teamsters Union—all voluntary organizations to which dues and contributions are voluntarily paid. They are not touched at all by the Fannin amendment.

So that the amendment is directed at the portion of dues, assets, fees, and other income which go into a tax exempt organization and which are used for the use of a political party or a particular political candidate.

It seems to me that the amendment overcomes an objection, which has been voiced in years gone by, to amendments or proposed laws singling out a union or singling out a chamber of commerce for special treatment.

It is my understanding that the Fannin amendment treats them all alike and makes clear that they are all covered by the language of the amendment. I believe that the portions of the record which I have had printed in the RECORD indicate the kind of abuse which is occurring under present law. It is the kind of abuse which I believe should be ended.

I believe that members of all these kinds of organizations would be better satisfied, and the Treasury of the United States would be better served, if an amendment such as the Fannin amendment were to be adopted.

Mr. FANNIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arizona has 4 minutes left.

Mr. FANNIN. Mr. President, the question is, Shall the people of the United States be forced to subsidize political candidates and political activities as mentioned in my amendment?

I feel that my amendment will bring about a better balance among management, labor, and Government.

The amendment is not punitive. It is fair and equitable.

The amendment will promote registration activities by political parties. That is the best kind of citizenship training that anyone can have.

Therefore, I feel that my amendment will promote good citizenship. It will be the basis for handling this question, which has been debated for many years.

I believe that the Senate will render a great service to the people of this country by adopting the amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, this amendment goes far beyond the Talmadge amendment, which was just defeated. It would prohibit the League of Women Voters or unions from carrying on even voter registration drives. It would prohibit unions from printing in newspapers endorsements of or opposition to Members of Congress.

It is so broad that where it ends in restricting the right of tax exempt organizations to express themselves consistent with the first amendment is difficult to envisage.

Mr. President, the amendment offered by the Senator from Arizona has raised the question of the political activities of tax-exempt organizations under sections 501(c) and 501(d) of the Internal Revenue Code. In order to understand its significance, we need to consider another questions which it does not treat directly, that is the present tax deductibility of certain political expenses by corporations.

Complicating a discussion of this issue is the recent appearance of newspaper advertisements, paid for by the tax-exempt National Right to Work Committee, in which this and an earlier amendment of the Senator's were advocated. In the ad, the state of the law, as it presently stands, was completely distorted.

In order for us to clearly understand the amendment and its far-flung ramifications, particularly as to where its full thrust is intended to be felt, it is necessary to discuss the organizations that are now tax exempt, what their rights are and their restraints as tax-exempt organizations, how they differ, if at all, and what consideration has been given to this subject thus far in the legislation before us.

H.R. 13270, as passed by the House of Representatives and as reported by the Senate Finance Committee does not prevent tax-exempt organizations such as trade associations, chambers of commerce, or labor organizations from engaging in political activities. Further, the present law makes no distinction as to the rights of these organizations to engage in political activities. It is now impartial. Of the 18 different types of tax-exempt organizations, only charitable organizations operate under a "no politics" rule.

Thus, under the present law, which is in no way affected by the committee's bill, political activities may be undertaken by the National Associaton of Manufacturers, the American Medical Association, the National Rifle Association, the American Farm Bureau, the National Grange, the U.S. Chamber of Commerce, the American Legion, the American Trucking Association, the AFL–CIO, the National Right-to-Work Committee, the League of Women Voters, real estate boards, boards of trade, social clubs, fraternities, benevolent life insurance associations, mutual or cooperative ditch or irrigation companies, credit unions, certain mutual insurance companies and mutual savings banks, social welfare organizations and churches. There are thousands of specific organizations within these categories that are now tax exempt and share a right to political activity. The law does not favor either labor or business associations.

The amendment before us, we are informed, supersedes an amendment offered by the Senator from Arizona which would have changed that balance and equality among the tax exempt organizations as to political activities. The earlier amendment would have singled out labor organizations to deny them their tax exempt status entirely if any dues or assessments were used "to support or oppose any candidate for public office or for other political purposes." That amendment would not have affected business-oriented or other tax-exempt organizations—many of which I described above—all of which are and would have continued to be free to participate in political activities without loss of tax exemption.

The fact that unions were being singled out for punitive treatment and denied a right that would remain to the other organizations has been totally distorted in at least two instances. When the first amendment was introduced, accompanying remarks in the RECORD declared that "the amendment simply requires that unions operate under the same rules as those applied to chambers of commerce, charitable foundations, churches or fraternal organizations."

Second, an advertisement in the Washington Post on October 27, 1969, addressed to the Senate Finance Committee, asked Congress to close what it termed "the only unmentioned loophole" and went on to state that "unlike other organizations a union does not lose its tax exemption because it engages in political activities."

The fact is that the tax-exempt status of labor unions, and the political activities they may undertake, is identical to that of all the other tax-exempt organizations. To claim that unions enjoy a special privilege in the law is a clear misrepresentation of the facts.

Thus, the first step in putting this matter into perspective is to discount the erroneous information presented at the time the first amendment was introduced.

This background is also important if we are to understand the purpose of the amendment before us, which, as the sequence of events demonstrates, is to use the tax code to enact punitive restrictions that would fall most heavily on labor unions, and certain civic groups, under the cover of a supposed interest in tax equality and loophole closing.

There is a further area that must be noted if we are to fully understand what is being proposed. That is, the privileges accorded, under the tax code, to profit-making organizations when they engage in political and legislative activities. These privileges are untouched by the Senator's amendment. If we are to consider changing the Federal tax code in reference to the political activities of union and business groups, we should discuss the impact of the code in its entirety.

Let me point out that business cor-

porations are presently able to obtain a tax deduction for a wide range of political and legislative activities. No similar benefit is enjoyed by the workingman, the consumer, or the small taxpayer.

The Fannin amendment does not propose to change the present rules that favor business by allowing such organizations to propagandize with tax-deductible dollars. Pursuant to section 162(3) of the Internal Revenue Code, businesses and corporations—but not individuals—can obtain a tax deduction for expenses of lobbying concerning legislation which is "of direct interest" to business. The Internal Revenue Service has interpreted the direct interest requirement so leniently that hardly any major issue is not considered of direct interest to a significant segment of the business in America—thus business lobbying before committees and individuals of the Congress in connection with social security is tax deductible.

The Internal Revenue Service has also taken the position that profit-making business—but not individuals—may obtain a tax deduction for propaganda promoting a corporation's views on "economic, financial, social or other subjects of a general nature" so long as such political propaganda does not relate to "lobbying purposes, the promotion or defeat of legislation, or political campaign purposes."

This rule permits a corporate tax deduction for expenses to propagandize for business political views by buying space in newspapers and magazines, sponsoring radio and TV programs, publishing books and pamphlets, and conducting so-called educational campaigns for employees. Such activities are tax deductible so long as they do not discuss specific legislation or specific candidates. The expenses of such tax deductible propaganda efforts are imposed upon the corporation's workers, its customers, and its shareholders, many of whom strongly oppose the use of corporate funds for these purposes. No comparable tax benefit is presently made available to workingmen or consumers to assist them in having their views heard.

Specifically, the Internal Revenue Service has held that a corporation can deduct expenses: first, for ads urging the public to register and vote and to contribute to the political party of their choice, second, for sponsoring a debate between candidates, and third, for encouraging employees to register and vote and contribute to the party of their choice. Nothing in the present amendment affects these corporation privileges.

In summary, all tax-exempt organizations—except charitable ones—enjoy identical rights to engage in political activities. Further, profitmaking corporations enjoy broad opportunities for tax deductibilty for many political activities and they can undertake other political activities through their nonprofit associations funded by tax-deductible dues and fees.

While the effect of amendment No. 303 on most tax exempt organizations is unclear, it is plain that it would, for example, quite literally put the League of Women Voters out of business. The league has a major commitment to voter registration projects. It is ironic that that commitment is being threatened at a time when the league has just embarked on a major national campaign emphasizing the value of the right to vote. The league has designated 1970 as "the year of the voter" and intends to do all in its power to alert citizens to the value of the ballot in our society.

It is also ironic in that the Senate only a few days ago approved the continued conduct of voter registration activities by tax-exempt foundations. The league had its beginnings 50 years ago when the vote was granted to women. It has not forgotten its heritage nor its determination to involve all citizens in our system of representative government.

In the last presidential election, the league operated mobile registration units in inner city areas. In an 80-precinct area in New York's Harlem, more than 18,000 new voters were registered. Tens of thousands of "Vote Baby Vote" buttons were passed out as well as leaflets and a special "Voteman" comic book. Thousands of leaguers participate in voter registration activities—knocking on doors; providing transportation; baby sitting; telephoning; or whatever it takes to get people registered.

In many communities, leagues join forces with other civic groups to get people registered. The Dayton, Ohio, league worked with churches, civic groups, and others in an inner city registration drive which added 4,000 new voters. In addition, they successfully petitioned the board of election for more liberal registration hours and convenient sites. In the Waterloo-Cedar Falls area the league held a 1-week concentrated drive aimed mainly at reaching newcomers to the area, low-income groups, and the black community. They went to schools, churches, and park areas and added almost 800 voters to the election rolls.

The list of league accomplishments relating to voter registration projects is almost endless. They have written an enviable record in the voting field and all of us owe them a debt of gratitude. Any curtailment of their activities would be a serious blow to our political process.

What would loss of tax exemption mean to labor organizations?

The effect of such a loss is not clear. It would appear, however, that such a loss would have a devastating effect on labor unions, almost alone among the tax-exempt groups I have noted, for unions are multipurpose organizations that are required to accumulate money for fraternal benefits, strike benefits, and so forth. Most other tax-exempt organizations are in a position in which they could minimize the impact of a loss of tax exemption by spending all of their income each year.

It should also be noted that many tax-exempt organizations restrict their political activity to acts designed to influence public opinion in general, or legislators in particular on certain issues. They do not engage in voter registration which the amendment would forbid. Presumably this is because they fear the effect of a broadened franchise. Nor do they directly endorse or make contributions to specific candidates or parties, presumably because they count among their adherents men of substance who can make large contributions on their own. Is it my understanding that the National Right To Work Committee, among others, fit in this category. Such organizations would be able to continue their activities, and no one can doubt that their activities are political, without endangering their tax-exempt status to any degree.

Moreover, this tax-exemption loss on labor unions would occur only in the event that unions continued to exercise what have been recognized as their constitutional rights of free speech and association. A prudent union leader would have grave difficulty approving acts which might jeopardize his union treasury until we have ascertained the impact of this vague amendment on his organization. An expenditure of $1,000, for example, which the courts might say was prohibitory by the new amendment, could result in tax liabilities of hundreds of thousands of dollars. Thus, it is plain that both of the Senator's amendments had as their basic thrust, not an attempt to raise revenue, but to penalize the exercise of constitutional rights. As the Supreme Court said in Speiser against Randall:

> It cannot be gainsaid that a discriminatory denial of a tax exemption for engaging in speech is a limitation on free speech.

Now, let us turn to the exact language of the amendment before us. It provides that any organization would lose its tax exemption entirely if "any part of its income or of the amounts received for its support is used, directly or indirectly to support or oppose any candidate for public office any political party or to carry on any voter registration."

This amendment, unlike the earlier one introduced by the Senator, appears neutral on its face. It is, however, again an antiunion proposal intended to increase the relative political power of the business community and the wealthy. This amendment has had no explanation that one can turn to in the CONGRESSIONAL RECORD. But, as the first amendment the Washington Star carried a paid political advertisement paid for by the tax-exempt National Right To Work Committee. This ad appeared on December 1, 6 days after the second amendment was introduced. The facts again did not inhibit the copy writer. The Fannin amendment, the ad stated, "will eliminate a special tax privilege conferred only on labor unions."

Again, with tiresome sameness, the totally erroneous claim is made that unions somehow enjoy a special status by the tax exemption. They do not under the tax code or elsewhere in Federal law.

Lest anyone believe that unions are totally uninhibited in their political activities, it must be made clear that they do not have total freedom to engage in political activities as they might see fit. The tax code is not the only law regulating unions. There are many restrictions on unions in the Taft-Hartley Act, in the Landrum-Griffin Act and, most directly applicable here, the Federal Corrupt Practices Act.

Under this act, labor unions and corporations are treated identically. In the case of each, certain political contribu-

tions and expenditures are outlawed under the criminal code. It is illegal for a labor organization—or a corporation—to make a contribution or expenditure in connection with any election for President, Vice President, or to the Congress of the United States. As a result, union dues are not used for contributions to or expenditures on behalf of political candidates.

Contributions and expenditures made by COPE and other similar groups are financed solely by separate, completely voluntary, contributions, rarely of more than a dollar a man. The collection and distribution of such voluntary political contributions by both business and labor is perfectly lawful. Business has the full legal right to carry out identical activities. Moreover, as the Supreme Court stated in *United States* v. *CIO*, 335 U.S. 106, in upholding the legality of political editorials in unions newspapers, the law does not prohibit the use of union funds for the circulation of political information by a union to its members or for nonpartisan activities, such as registration directed at union members and their families.

There can be no doubt that Congress in shaping the contours of section 610 was wise in allowing the foregoing activities. The Supreme Court has made this clear in such cases as *Williams* v. *Rhodes*, 393 U.S. 23, which overturned a law making it impossible for George Wallace's third party to appear on the ballot and *NAACP* v. *Button*, 371 U.S. 415, which permitted group activities to vindicate basic legal rights through court litigation. The equal protection of the right to vote, the right of free expression and free association, all of which are basic to our democratic system, and all of which are protected by the Constitution, demand no less.

For example, the right of unions to solicit voluntary contributions and the right of individual workingmen to contribute is essential to a balanced political system. In the last election for which we have authoritative figures, the 1956 election, 12 families and the officers of the 225 largest corporations made contributions of $500 or more each, that totaled $3 million. Union officials contributed $19,000. Naturally, union members individually do not have the resources to make such contributions, but together they pooled their funds to make contributions of $1 million—one-third of the total of the wealthy individuals mentioned above.

Fundamental fairness supports the opportunity of millions of working men and women to counter the effectiveness of the small group of wealthy citizens who can afford highly visible and memorable large contributions.

The right of unions to engage in nonpartisan voter registration directed at their members is also essential to maintain a balance between labor and the industrial community. As I have pointed out, corporations, which are not tax exempt, enjoy substantial tax incentives to engage in nonpartisan political activity. Why does the Senator think it is wrong for unions to do so?

The law as it presently operates is, in large measure, responsive to basic constitutional imperatives and to the belief that all groups should have a fair opportunity to take part in the political process. In 1967, the Senate reaffirmed the balance struck by section 610 by rejecting a proposal—46 to 19—which would have prohibited group activity in the political area. The new amendment of the Senator from Arizona seeks to override this balance. It is in practical terms, the essence of the 1967 proposal in a new form. For example, it might be argued that the amendment reaches voluntary political contributions to unions by their members, or the mere statement by a union convention, directed at that union's membership, that a certain candidate is preferable to his opponent on labor matters. The amendment, of course, places no restraints on individual contributions by wealthy persons. The amendment plainly reaches voter registration and it is equally plain that it has no effect on corporate endeavors in the same area. Its total intent is to drive from the field of political action all those whose strength is provided by joining into associations for the pursuit of a common goal other than business profits.

It is beyond dispute that the regulation of political activity by unions and other nonprofit groups raises complex policy and constitutional questions. Yet, amendment 303 is offered without the benefit of thorough study and in the absence of hearings. The proposal has not been considered either by the Senate or House labor or tax committees or by Treasury or Justice Department officials.

A basic change of this kind should not be considered without adequate study. This axiom is certainly applicable where there is carefully considered legislation in force. Section 610 was fully considered and debated prior to enactment. The carefully delineated lines it drew should not be obliterated through a tax amendment first offered on the floor. This is especially clear since there is no evidence that section 610 is defective in design or in actual effect. There is no emergency situation precluding careful consideration of the ramifications of the rules presently in effect. There is simply no rational excuse for this type of back door amendment of the tax laws to strike at a recognized, legitimate exercise in political participation.

In addition to its failure on the substantive level, the new Fannin amendment would propose a highly punitive remedy. As proposed, an organization could totally lose its tax exemption for any violation, whether major or minor, accidental or deliberate. The tax committees of both Senate and House have recognized that loss of exemption is not an appropriate or an effective sanction. In many cases, the penalty is too harsh—a minor inadvertent violation can cause loss of exemption with disastrous consequences. In other cases, the same sanction—loss of exemption—may be totally ineffective because some organizations will owe no tax even if exemption is lost. To impose a sanction of this kind without adequate study is to risk crippling or destroying certain categories of exempt organizations while imposing only a trivial or ineffective sanction against another.

In sum, amendment No. 303 is without a redeeming feature. It does not serve the avowed purposes of H.R. 13270—the attainment of equity in our tax statute and the closing of loopholes. It would replace a relatively even-handed process for the regulation of group political activity with one that favors the business community and the wealthy, and specifically disfavors labor unions. Its avowed purposes have been shown to be without support in reason or law. It has not been subjected to the close scrutiny that is mandatory for a major place of legislation which touches on basic political and constitutional rights. It is an attempt to amend a section of the Criminal Code through the back door of tax reform. It embodies a harsh and unsound remedial scheme. Amendment No. 303 should therefore be rejected.

Mr. FANNIN. Mr. President, is the Senator willing to yield back his time?

Mr. MILLER. Mr. President, will the Senator yield to me so that I may ask a question?

Mr. FANNIN. I yield.

Mr. MILLER. Mr. President, the Senator from Minnesota indicated that this amendment would stop the League of Women Voters from registration drives. It is my understanding that the League of Women Voters sets up a special foundation for the purpose of organizing voter registration drives. As I understand the amendment by the Senator from Texas (Mr. YARBOROUGH) that was adopted the other day, the use of funds by a foundation for voter registration drives is not interfered with.

Mr. MONDALE. I think the Senator's understanding is incorrect. Where the assets of a tax-exempt organization, including staff, are used for the purposes mentioned, for voter registration, the tax-exempt status of the organization is to be terminated.

Mr. President, I yield back my time.

Mr. FANNIN. I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arizona. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. COOPER (after having voted in the negative). Mr. President, on this vote, I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea"; if I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ALLOTT. Mr. President, on this vote I have a pair with the junior Senator from Colorado (Mr. DOMINICK). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. BAKER (after having voted in the affirmative). Mr. President, on this vote I have a live pair with the distinguished senior Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. HRUSKA (after having voted in the affirmative). Mr. President, on this

vote I have a pair with the senior Senator from Louisiana (Mr. ELLENDER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Montana (Mr. METCALF), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Alabama (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Louisiana (Mr. ELLENDER) are absent on official business.

I further announce that, if present and voting, the Senator from Alabama, (Mr. ALLEN), the Senator from Nevada (Mr. CANNON), and the Senator from Montana (Mr. METCALF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. DOMINICK) and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The respective pairs have been previously announced as follows: The Senator from Tennessee (Mr. BAKER) and the Senator from Missouri (Mr. SYMINGTON); the Senator from Kentucky (Mr. COOPER) and the Senator from Arizona (Mr. GOLDWATER); The senior Senator from Colorado (Mr. ALLOTT) and the junior Senator from Colorado (Mr. DOMINICK); and the Senator from Nebraska (Mr. HRUSKA) and the Senator from Louisiana (Mr. ELLENDER).

The result was announced—yeas 27, nays 59, as follows:

[No. 193 Leg.]

YEAS—27

Bellmon	Griffin	Murphy
Bennett	Gurney	Pearson
Byrd, Va.	Hansen	Russell
Cotton	Holland	Saxbe
Curtis	Hollings	Stennis
Dole	Jordan, N.C.	Thurmond
Eastland	Jordan, Idaho	Tower
Ervin	McClellan	Williams, Del.
Fannin	Miller	Young, N. Dak.

NAYS—59

Aiken	Hartke	Packwood
Bayh	Hatfield	Pastore
Bible	Hughes	Pell
Boggs	Inouye	Percy
Brooke	Jackson	Prouty
Burdick	Javits	Proxmire
Byrd, W. Va.	Kennedy	Randolph
Case	Long	Ribicoff
Church	Magnuson	Schweiker
Cook	Mansfield	Scott
Cranston	Mathias	Smith, Maine
Dodd	McCarthy	Smith, Ill.
Eagleton	McGee	Sparkman
Fong	McGovern	Spong
Fulbright	McIntyre	Talmadge
Goodell	Mondale	Tydings
Gore	Montoya	Williams, N.J.
Gravel	Moss	Yarborough
Harris	Muskie	Young, Ohio
Hart	Nelson	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—4

Allott, against.
Baker, for.
Cooper, against.
Hruska, for.

NOT VOTING—10

Allen	Ellender	Stevens
Anderson	Goldwater	Symington
Cannon	Metcalf	
Dominick	Mundt	

So Mr. FANNIN's amendment was rejected.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, for the information of the Senate and in response to a query, before I received recognition, from the distinguished Republican leader, we have come to a joint conclusion that it might be better to have the vote just cast be the last rollcall vote for today. If there is any amendment which can be passed on a voice vote, fine and dandy, but I know of no amendment of that nature at this time.

Mr. SCOTT. Mr. President, if we could have a limitation of time on the pending amendment, I would like to have that.

Mr. MANSFIELD. Yes. I understand that the distinguished Senator from Tennessee (Mr. GORE) and the distinguished Senator from Delaware (Mr. WILLIAMS), who are the cosponsors of an amendment which will soon be offered, are agreeable to a 40-minute time limitation, the time to be equally divided between the Senator from Tennessee, or whomever he may designate, and the distinguished chairman of the committee.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it stand in adjournment until 10 o'clock tomorrow morning.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of morning business at the conclusion of the prayer on tomorrow morning.

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

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, if we are successful in passing the tax reform bill tomorrow, it is the anticipation of the leadership to take up the District of Columbia appropriations bill, the foreign aid authorization bill, and the Department of Transportation appropriations bill later in the week. There is another bill that I cannot think of at the moment, but there will be plenty of business to transact.

Mr. MAGNUSON. Mr. President, we will have a subcommittee meeting on the Department of Health, Education, and Welfare bill at 2 o'clock tomorrow and a full committee meeting on Thursday. The bill will have to be printed in the meanwhile. We ought to have that ready to report by Friday. We might have a vote on Monday.

COMMITTEE MEETINGS DURING SENATE SESSION TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Agriculture and Forestry be authorized to meet during the session of the Senate tomorrow.

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

Mr. McINTYRE. Mr. President, I ask unanimous consent that the Subcommittee on Small Business of the Commitee on Banking and Currency be authorized to meet during the session of the Senate tomorrow.

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

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

AMENDMENT NO. 389

Mr. GORE. Mr. President, I call up my Amendment 389 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. GORE. Mr. President, I will not ask at this time that the amendments be considered en bloc. Some Senators have indicated that they would like to have a division of the question. However, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, reads as follows:

Page 384, lines 7 and 8, strike out "and Rehabilitation Property".

Page 384, line 9, strike out "(m)" and insert "(l)".

Page 384, line 11, strike out "subsections" and insert "subsection".

Page 386, lines 18 and 19, strike out "(within the meaning of subsection (k)(3)(C))".

Page 389, line 2, after the period insert closing quotation marks.

Page 389, beginning with line 3, strike out all through line 5, page 391.

Page 394, beginning with line 10, strike out all through line 2, page 395, and redesignate succeeding subsections.

Page 397, line 13, strike out "(b), (j), and (k)" and insert "(b) and (j)".

Page 432, beginning with line 4, strike out all through line 2, page 454 (sections 704, 705, and 706 of the committee amendment).

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business tomorrow, there be a time limitation on the pending amendment of 40 minutes, the time to be equally divided between the distinguished Senator from Louisiana (Mr. LONG and the distinguished Senator from Tennessee (Mr. GORE).

Mr. GORE. Mr. President, the time is to begin on tomorrow. I will make some remarks tonight.

Mr. MANSFIELD. The Senator is correct.

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

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

The yeas and nays were ordered.

The unanimous-consent agreement, later reduced to writing, is as follows:

Ordered, That, on Tuesday, December 9, 1969, following the routine morning business, further debate on the Gore amendment (No. 389) to H.R. 13270, the tax reform bill, shall be limited to 40 minutes, to be equally divided and controlled by the Senator from Tennessee (Mr. GORE) and the Senator from Louisiana (Mr. LONG).

ONE MILLION DOLLARS GIVEN TO STUDENT REVOLUTIONARIES

Mr. THURMOND. Mr. President, the Chicago Tribune has performed a notable public service in exposing the incredible story that the Department of Health, Education, and Welfare has made grants totaling more than a million dollars to an avowedly revolutionary student organization. Although the grants supposedly were for a "health survey," some of the individuals involved helped organize the 1968 riots during the Democratic National Convention in Chicago.

According to the Tribune, a total of $739,816 was given to this group, the so-called Student Health Organization, under the Johnson administration. This year the Government approved $254,800 for the same group.

The Tribune says that the latest issue of the SHO newsletter is dedicated to Ho Chi Minh. It idolizes Che Guevara, Mao Tse-tung, and Eldridge Cleaver. An article in the newsletter states its policy as follows:

We feel that it is absolutely critical to support third world liberation struggles in the mother country. To not do so would be an open form of racism. This means clear and real supoprt of the NLF and the Peoples' Revolutionary Government of Viet Nam.

Mr. President, to make matters worse, there were no guidelines set down by the Government. The only requirement was that the money be funneled through a hospital or medical group. These revolutionaries were allowed to do what they pleased in this so-called survey. No trained research personnel were hired. Professional methods of interviewing were ignored.

Mr. President, this grant appears to be nothing more than a form of subsidy for student revolutionaries. It is a method which someone has worked out to pay the revolutionaries while they are engaged in planning riots and mayhem. The immediate question is: Who devised this program? Who is responsible for approving it? I call upon Secretary Finch to investigate this situation immediately, and to take appropriate steps. HEW is a big department. I can understand how the Secretary may not have been aware of the exact nature of a $250,000 grant to a continuing program. However, the facts suggest that whoever devised the program under the Johnson administration may still be in positions of responsibility. This is a gross distortion of HEW's mission, and a perversion of our responsibility to the taxpayers. I hope that the Secretary will report to the people immediately on this topic, because I know that Congress will not delay long in studying this situation itself.

Mr. President, I ask unanimous consent that the articles from the Chicago Tribune, "Radicals Given $1 Million," December 7, 1969, and "How U.S. Pay Aided 1968 Rioters," December 8, 1969, be printed in the RECORD.

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

[From the Chicago Tribune, Dec. 7, 1969]

RADICALS GIVEN $1 MILLION—HEW FUNDS SURVEYS OF HEALTH NEEDS—GROUP OPENLY BACKS REDS

(By Ronald Koziol)

A student group which openly supports the Communist party has received more than one million dollars in federal funds in the last two years, a *Tribune* investigation has disclosed.

The group is the Student Health organization (S.H.O.), which has described itself in news letters as "a refuge for the left-of-center health student activists."

MONEY FROM HEW

It received the money from the department of health, education, and welfare to conduct surveys of health needs in Chicago and six other cities.

In Chicago, $183,953 was spent on the survey which was conducted in the summer of 1968. Other cities or areas surveyed included New York, Philadelphia, Colorado, and southern California. A total of $739,816 was given to five medical centers in the name of the S. H. O. to perform the surveys.

Money given to the S. H. O. during the Johnson administration continued to be funneled to the organization since President Nixon took office. This year, the government approved $254,800 for the S. H. O. to conduct similar surveys in Wisconsin and northern New England.

DEDICATED TO HO

The latest issue of the S. H. O. news letter is dedicated to the memory of North Vietnamese Communist leader Ho Chi Minh.

ST. LUKE'S IN CHICAGO

In Chicago, Presbyterian-St. Luke's hospital assumed the responsibility for the federal funding contract. Dr. Joyce Lashoff served as adviser to the group.

Its cover shows a picture of Che Guevara, slain Cuban revolutionary, and it quotes favorably Mao Tse-tung, Red Chinese leader, and Eldridge Cleaver, self-exiled leader of the militant Black Panther party.

It also carries obscene cartoons critical of the military and the war in Viet Nam, and a favorable story on "Cuba's Revolutionary Medicine." One article attacks American liberals, such as Mayor John Lindsay of New York, and Walter Reuther, president of the United Auto Workers union.

Another article by the S. H. O. national service center staff, which formerly had offices at 2024 N. Halstead St., spells out the strategies and policies of the organization. It states:

"We feel that it is absolutely crucial to support third world liberation struggles in the mother country. To not do so would be an open form of racism. This means clear and real support of the NLF (National Liberation Front) and the Peoples' Revolutionary Government of Viet Nam.

CREATING MANY VIETS

"It means not only relating to the anti-war movement, but also relating to the strategy of creating 'one, two, three, many Viet Nams.'

"We should try to understand, relate to, and work with other revolutionary groups. This would mean that we should start working closer with the largest of these organizations, the Students for a Democratic Society."

Government officials said the survey projects were devised, organized, and directed by S. H. O. members. The only federal requirement was that money for the surveys channeled thru medical schools or hospitals.

"I believe the survey got across what was required and that the contract was fulfilled," Dr. Lashoff said. "The government's regional medical program felt the survey could be helpful in identifying certain programs."

She said students studying medicine, nursing, law, and social work were employed in the 10-week program.

Bryan Lovelace, assistant director of the Illinois Regional Medical program of HEW said he did not know anything about the survey report. However, Marilyn Voss, a public information specialist in the office, said that the report is in the process of being printed.

STUDIED BY 24 DEANS

When it is printed, the survey will be studied by 24 deans of medical schools and teaching hospitals which compose the board of the regional medical program, she said.

Officials in Washington contend that the surveys have turned up information that would not otherwise be available. One official in the health services and mental health administration said "the regional medical programs will know how to use the survey information."

It was also noted in a lengthy Washington report on the summer health project surveys that "it was readily obvious that such information could not be obtained thru traditional channels [formal surveys]."

PERTURBED BY AMBIGUITY

In the S. H. O. survey report, which was obtained for study by THE TRIBUNE, it is noted that "many students conducting the survey were perturbed by the ambiguity of their roles and complained that they did not know exactly what to do."

The report continued, "Part of this uncertainty was due to the deliberate attempt by the staff to avoid stifling student's creativity by a strict guidelining of their roles, thinking that the summer's experience would be more productive if students were independent to design their own activity."

Another chapter in the survey deals with interviews conducted in the Pilsen community by S. H. O. members. It was pointed out that students selected persons to be interviewed by chance and haphazardly. According to the report:

"We would walk thru the streets of the area and approach anyone we saw who was out on the sidewalk or on their front porch and appeared not to be doing anything pressing. We would then present ourselves.

INEXPERIENCE AND RELUCTANCE

"Our reasons for not using a more rigorous sampling procedure was our inexperience and our reluctance to engage in house-to-house canvassing."

Altho the survey report was to concern itself with health needs, it also devoted a section to attacking the Rev. Francis Lawlor and his southwest side block clubs.

"We do not wish to discount blatant racism as a force in the community," it said. "There are John Birchers, white supremacists, and nazis in some neighborhoods, but most of the people subscribe to the tried and true racial misconceptions pervasive in America."

Miss Voss said that the S. H. O. survey was responsible for the opening of a free inner-city medical clinic on the west side in an area which has had little previous medical care. The clinic was opened in September with a government grant of $71,400.

The survey also proposed several amendments to the state's medical assistance programs.

[From the Chicago Tribune, Dec. 8, 1969]

HOW U.S. PAY AIDED 1968 RIOTERS—FOUR STUDENTS GET WAGES IN HEALTH STUDY—THEY HELP PUSH CITY DISORDERS

(By Ronald Koziol)

Four student radicals helped organize demonstrations against the Democratic national convention last year while being paid by the federal government to conduct a health survey in the city, THE TRIBUNE has learned.

The four are listed as members of the Student Health Organization [S.H.O.]. THE TRIBUNE disclosed yesterday that the S.H.O. received more than 1 million dollars in federal funds in the last two years, altho it openly supports the Communist party in Viet Nam and thruout the world.

CLOSELY LINKED TO S.D.S.

S.H.O. is closely linked to the Students for a Democratic Society [S.D.S.] and other radical and militant groups which have staged riots in Chicago at the 1968 convention, and in October, and last month in Washington.

The four are Marsha Steinberg, Barbara Britts, Mark Simons and James Pinney. Miss Steinberg was indicted by a county grand jury on charges of mob action and aggravated battery stemming from the Sept. 24 disturbances and attacks on police near the Federal building.

She has also been charged with mob action and disorderly conduct as a result of the S.D.S.-Weatherman faction rampage thru the near north side on the night of Oct. 8.

Miss Steinberg and Pinney are listed in the survey report as area coordinators. In this capacity they received a salary of $1,200 for the 10 weeks the survey was in progress. Miss Britts and Simons were participants in the survey-taking and received $90 a week for 10 weeks.

Investigators said that during the convention week Miss Steinberg was observed in several demonstrations and was also active in recruiting S.H.O. members into the S.D.S.

WRITES POSITION PAPER

Pinney is a leader of the R.Y.M. II or Revolutionary Youth Movement faction of the S.D.S. He was repeatedly seen during convention week at one of the S.D.S. prime movement centers at the Church of the Three Crosses, 1900 Sedgwick st.

Pinney recently wrote a position paper with four other activists which stated that R.Y.M. II should form a Marxist-Leninist organization. The paper noted:

"We must prepare ourselves and the masses for an armed struggle. People in our organization should be prepared to defend themselves and to use all the weapons necessary for revolutionary struggle."

NEGOTIATORS FOR COMMITTEE

The names of Miss Britts and Simons appear in testimony presented to the House internal security committee in hearings in October, 1968, during its probe into the convention week disorders.

Simons was a negotiator for the National Mobilization Committee to End the War in Viet Nam, the chief planners of the convention week disruptions. In his role as a negotiator, Simon met with city officials in an attempt to obtain permits for different demonstrations.

Evidence was introduced at the hearings showing that Simons attended a planning meeting of the mobilization committee in early August, 1968.

PAID DURING RIOTS

Also in attendance at the planning session was Miss Britts, who served as the liaison between the S.H.O. and the Medical Committee on Human Rights, a group that furnished medical aid to convention week rioters.

Investigators said she played an active role in organizing first aid stations and mobile first aid teams, and in training marshals in first aid.

Dr. Joyce Lashoff, of Presbyterian-St. Luke's hospital who served as faculty adviser for the 1968 survey said records showed that the four students were paid for the entire summer, including the months of July and August and during the convention week riots.

Presbyterian-St. Luke's hospital assumed responsibility for the federal funding for the survey in Chicago. The department of health, education and welfare in making the money available for the S.H.O., insisted that it be channeled thru a hospital or medical group.

The S.H.O. role in the convention week disorders was brought out in the congressional testimony by James L. Gallagher, an investigator for the House committee.

SET UP STATIONS

Gallagher in a memo to the Cleveland chapter of S.H.O. noted that its responsibility in convention week would be to set up first aid stations and give medical attention to injured persons in jail. Medical supplies would also be collected in Cleveland in the preconvention period. He said:

"This I think is noteworthy because it implies an intention of creating a confrontation. Its members were informed that a camera crew would be set up to take pictures of alleged police brutality and arrests in Chicago."

The Tribune disclosed yesterday that S.H.O. chapters in New York City, Philadelphia, Colorado, California, Wisconsin, and New England received government funds to conduct health surveys.

MANAGEMENT OF FISH AND RESIDENT WILDLIFE ON FEDERAL LAND

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate turn to the consideration of Calendar No. 546, S. 1232, which, to the best of my knowledge, has been completely cleared all the way around.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1232) to declare and determine the policy of the Congress with respect to the primary authority of the several States to control, regulate, and manage fish and wildlife within their territorial boundaries; to confirm to the several States such primary authority and responsiblity with respect to the management, regulation, and control of fish and wildlife on lands owned by the United States; and to specify the exceptions applicable thereto; and to provide procedure under which Federal agencies may otherwise regulate the taking of fish and game on such lands.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOSS. Mr. President, it is most important that this bill be passed as it will clarify and remove points of friction between the Federal Government and the various States on their role in the management and protection of resident fish and game on Federal lands.

Historically, the States, as successors to the British Crown in America, have held and exercised the right to control resident fish and game within State boundaries. For a number of years, however, there has been a growing controversy between the States and the Federal agencies as to who has the jurisdiction over resident wildlife species on Federal lands.

This bill would assign the primary authority for the control, regulation, and management of these species to the States. The exceptions would be migratory, endangered, and Indian, game and fish. The bill would not, of course, disturb the present rights and powers of Congress to control and regulate the taking of fish and wildlife under any international treaty or convention of which the United States is a party.

This measure was first proposed in the 90th Congress by Senator BIBLE, with similar legislation introduced by Senator FANNIN. Both bills were widely cosponsored. I was one of the cosponsors of the Bible bill.

It was my privilege to conduct hearings for the Senate Commerce Committee during the 90th Congress on both bills in Washington, D.C., Salt Lake City, Utah, and Miami, Fla. I am the principal sponsor of the present bill, with Senators BIBLE, CANNON, and CHURCH as cosponsors. I also conducted hearings on this bill in Cleveland, Ohio, in April of this year.

In all of these hearings I have made every effort to develop a complete and detailed record, giving all interested parties ample opportunity to testify. The State fish and game commissioners have all been contacted, and many of them have appeared personally in behalf of the bill. They unanimously endorsed its principles in 1967. S. 1232 has been specifically endorsed by the National Governor's Conference, and it is supported by the International Association of Game, Fish, and Conservation Commissioners.

The Wildlife Management Institute, the Izaak Walton League, and the National Wildlife Federation appeared at the hearings in support of S. 1232, although they stated they were hopeful that the differences between the State and Federal agencies could be settled through meetings of the aggrieved parties.

However, the hearings have proved rather conclusively that legislation is needed to clarify the specific roles of both the State and Federal governments, and I feel that an irrefutable case was made for the passage of this bill.

It will do what we all want to see done—provide for the management of our fish and game population in a way that they can exist at the maximum level with the forage, habitat and protection they must have.

I ask that the bill be passed.

The PRESIDING OFFICER. The bill is open to amendment. If there be no 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. 1232

A bill to declare and determine the policy of the Congress with respect to the primary authority of the several States to control, regulate, and manage fish and wildlife within their territorial boundaries; to confirm to the several States such primary authority and responsibility with respect to the management, regulation, and control of fish and wildlife on lands owned by the United States; and to specify the exceptions applicable thereto; and to provide procedure under which Federal agencies may otherwise regulate the taking of fish and game on such lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as used in this Act, the term—

(1) "fish and wildlife" means all vertebrates (including mollusks and crustacea);

(2) "States" means the several States of the United States;

(3) "land owned or controlled by the United States" includes buildings, and structures, trees, crops, or any flora or plants growing thereon;

(4) "department or agency of the United States" means any department, agency, entity or bureau, commission, or any other official or body created by an Act of Congress having charge over the management or control of lands of the United States Government; and

(5) "State agency" means the department, commission, agency, officer or official which is authorized by State law or constitution to regulate, control or manage fish and wildlife in such State, including an interstate compact body authorized to regulate, control or manage any fish or wildlife.

SEC. 2. The Congress of the United States hereby recognizes—

(1) the necessity and importance of conservation programs of the several States in the management, preservation, and regulation of fish and wildlife therein;

(2) that under well-established law set forth in many court decisions, including the Supreme Court of the United States, that the authority to control, regulate, and manage fish and wildlife resides and rests in the several States in trust for the benefit of their people independent of jurisdiction over or ownership of land and that it is the primary duty of the States to conserve and protect these resources;

(3) that unless the several States have the unquestioned right and power to manage, control, and regulate fish and wildlife within their respective boundaries, the revenues from the sales of licenses or permits now or to be received by the States for the hunting, taking, capturing or seizing of fish and wildlife will be considerably diminished and conservation programs of the States seriously impaired thereby;

(4) that Congress has in the past vested certain departments or agencies, of the United States with responsibilities to conserve and develop natural resources, including fish and wildlife on certain federally owned lands, but that such responsibilities should be exercised in recognition of the State's authority with respect to fish and wildlife; and

(5) that it is in the best interest not only of the States but also of the Nation that the States have the sole, exclusive, and undisputed legal right to manage, regulate, and control fish and wildlife in accordance with State laws and regulations notwithstanding the ownership or control of the lands by the Government of the United States within the boundaries of the respective States.

The Congress further declares it to be in the public interest that authority to control, regulate, and manage all fish and wildlife in or on any land or water within the territorial boundaries of the respective States, including lands owned or controlled by the United States, continue to be vested in the several States.

SEC. 3. The exclusive right and power of the States to conserve, control, and manage fish and wildlife in or on lands and waters within their territorial boundaries for public use and benefit in accordance with applicable State law, or subject to the provisions hereof, recognized, confirmed, established, assigned, granted, and transferred to the respective States.

SEC. 4. This Act shall not be construed as affecting the responsibilities and rights of departments or agencies of the United States to conserve and develop, subject to the provisions of this Act, the natural resources, including fish and wildlife, on lands owned or controlled by the United States within the territorial boundaries of any States or as depriving the United States of the right to protect and preserve its lands from destruction or depredation by wildlife to the same extent and in the same manner permitted to any owner of land by the laws of the State in which such land is located. There is hereby specifically reserved and excepted from the operation of this Act:

(a) All rights and powers of the Congress of the United States to control and regulate the taking of fish and wildlife under any international treaty or convention to which the United States is a party but only with respect to those species of fish or wildlife expressly named in said treaties or conventions.

(b) Any Indian reservation and any right, privilege or immunity vested in or reserved to any Indian tribe, land, or community or any individual Indian or any tribe, band, or community of natives of Alaska, or any individual member thereof, with respect to hunting, trapping or fishing or the control, licensing or regulation thereof.

(c) All rights and powers of the United States in and on areas over which the States have ceded exclusive jurisdiction to the United States.

(d) All rights and powers over any species of fish and wildlife ceded or granted to the United States by any State.

SEC. 5. No department or agency of the United States shall promulgate or enforce any rule or regulation with respect to the taking of fish and wildlife within the several States unless such rule or regulation is in compliance with, and under authority of, the laws and regulations of the State wherein such rule or regulation is applicable.

SEC. 6. Notwithstanding anything contained in any Act of the Congress or in any rule or regulation promulgated by any Federal department or agency it is hereby declared to be the intent of the Congress that no provision of any Act shall be construed or implemented in any manner as to displace, preempt, or deprive the several States of their primary and historically recognized authority to control, regulate, and manage fish and wildlife in or on any lands or waters within their territorial boundaries, including all lands and water owned by the United States or in which the United States Government has an interest.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–551), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of S. 1232 is to resolve a long-standing controversy which has existed between the States and certain Federal administrators particularly within the Department of the Interior concerning extent of Federal authority over fish and resident wildlife on federally owned lands. To many observers, recent incidents indicate an alarming trend toward Federal involvement in areas traditionally considered areas of State responsibility and jurisdiction. Broad assertions of Federal authority appear to be culminating in the notion that, unlike other landowners, which land is owned by the U.S. Federal administrators possess authority over wildlife which is seemingly superior to State authority. Federal administrators have thus claimed authority to take wildlife in disregard of State law, the only requirement apparently being that a "Federal purpose" be involved. The States have unanimously rejected such assertions. Attempts to arrive at an administrative solution, though diligently pursued, have not proved successful with the result that an important facet of this Nation's conservation effort, depending in large measure on close Federal-State cooperation, has been measurably impaired. It is the purpose of S. 1232 to resolve this dispute by legislation confirming the historic patterns that have evolved in this country in connection with fish and resident wildlife and to require that, with certain exceptions, taking of fish and resident wildlife on federally owned lands be accomplished within the framework of State law.

It is not the purpose of S. 1232 to open Federal lands to public hunting or fishing where such is not now permitted. The bill in no way affects the authority of Federal administrators to limit or prohibit altogether hunting and fishing on Federal lands if such limitation or prohibition has been otherwise authorized by Congress. Nor does the bill alter the authority of Federal administrators, if otherwise authorized, to manage fish and wildlife habitat on its lands. The bill instead confirms the primary role of the States with respect to fish and resident wildlife within their borders and requires that taking of fish and resident wildlife, whether by the public or by Federal personnel in pursuance of a Federal project, be accomplished in compliance with State law.

As stated above, this legislation is an attempt to resolve the controversy which has existed over whether Federal activities in connection with the wildlife resource on lands owned by the United States should be carried on within the framework of State law. The bill, S. 1232, and its predecessor, S. 2951, were introduced with the sponsorship of the International Association of Game, Fish, and Conservation Commissioners, an association of the fish and game agencies of all 50 States.

SECTION-BY-SECTION ANALYSIS

Section 1 contains definitions of various terms utilized in the bill.

Section 2 contains congressional findings recognizing the importance of the programs of the States in the management, preservation, and regulation of fish and wildlife within their borders; that primary authority to manage fish and wildlife resides in the States in trust for the benefit of their people independent of jurisdiction over or ownership of land; that it is essential to the conservation programs of the States that primary authority over wildlife not be eroded and that the responsibilities of Federal departments and agencies with respect to conservation and development of natural resources, including fish and wildlife on federally owned lands, should be exercised in accordance with State laws and regulations.

Section 3 recognizes and confirms to the States the exclusive right and power to conserve, control, and manage fish and wildlife within their territorial boundaries for public use and benefit in accordance with applicable State law.

Section 4 would make clear that the bill is not intended to affect the responsibilities and rights of departments and agencies of the United States to conserve and develop natural resources, including fish and wildlife, on federally owned lands but that such rights and responsibilities should be exercised in accordance with State law. This section also refers to the rights of the United States to protect and preserve its lands from destruction or depredation by wildlife. Thus Federal departments or agencies may protect lands ad-

ministered by them from injury caused by overabundant or harmful populations so long as destruction of fish and wildlife for this purpose is accomplished in the manner prescribed by State law.

Section 4 also excepts from operation of the bill four situations where other rights with respect to fish and wildlife within a State's territorial boundaries are superior to those of the States: (*a*) rights and powers of Congress under international treaty or convention; (*b*) rights, privileges or immunities vested in or reserved to Indian tribes, bands or communities or an individual thereof or vested in or reserved to any tribe, band, or community of natives of Alaska or an individual thereof pursuant to Federal statute or treaty; (*c*) rights and powers of the United States in and on areas wherein the Federal Government exercises exclusive jurisdiction; (*d*) rights and powers over any species of fish and wildlife ceded or granted to the United States by any State.

Section 5 prohibits the promulgation by any department or agency of the United States of any rule or regulation concerning the taking of fish and wildlife within the several States unless in compliance with and under authority of State law and regulation. This section recognizes that Federal departments and agencies may adopt their own regulations concerning taking of fish and wildlife on federally owned lands so long as such regulations are not in violation of State law.

Section 6 provides that no act of Congress or any rule or regulation promulgated by a Federal department or agency shall be construed or implemented so as to displace, preempt or deprive the States of their primary authority to control, regulate, and manage fish and wildlife within their territorial boundaries.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 14751) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1970, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SIKES, Mr. MCFALL, Mr. PATTEN, Mr. LONG of Maryland, Mr. MAHON, Mr. CEDERBERG, Mr. JONAS, Mr. TALCOTT, and Mr. BOW, were appointed managers on the part of the House at the conference.

S. 3219—INTRODUCTION OF A BILL TO PROVIDE FOR SPECIAL PROJECT GRANTS FOR THE PROVISION OF FAMILY PLANNING SERVICES

Mr. JAVITS. Mr. President, I send to the desk a bill which implements the administration's message delivered here today on family planning services. I introduce the bill for myself and the Senator from Colorado (Mr. DOMINICK), who is the ranking minority member of the Subcommittee on Health, and the Senator from Vermont (Mr. PROUTY).

The bill inaugurates—I want very much to see it passed—a program of family planning services throughout the United States, but without making it as a condition of the receipt of any welfare or other acceptance or in any coercive way requiring or compelling any person to have the benefit of these services. I ask unanimous consent that the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3219) to amend the Public Health Service Act to provide for special project grants for the provision of family planning services and related research, training, and technical assistance, introduced by Mr. JAVITS (for himself, Mr. DOMINICK, and Mr. PROUTY), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3219

A bill to amend the Public Health Service Act to provide for special project grants for the provision of family planning services and related research, training, and technical assistance

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 "Family Planning Services Amendments of 1969".

SEC. 2. Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by adding after section 315 the following section:

"FAMILY PLANNING SERVICES

"SEC. 316.(a)(1) The Secretary is authorized to make grants to or contracts with public or nonprofit private agencies, institutions, and organizations for projects for the provision of family planning services. Except in cases in which the Secretary determines a higher percentage is necessary to carry out the purposes of this section, no such grant or contract may provide for payment hereunder of more than 90 per centum of the cost of the project.

"(2) Grants may be made and contracts entered into under this subsection only upon assurance satisfactory to the Secretary that:

"(A) priority will be given in the furnishing of such services to persons from low-income families;

"(B) no charge will be made for services provided under the project to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge;

"(C) acceptance of any service provided under the project will be voluntary on the part of the person to whom such service is offered and will not be a prerequisite to eligibility for or receipt of any other service or to assistance from or participation in any other program or project of the grantee;

"(D) there will be appropriate coordination of services provided under the project with, and utilization of, other related Federal, State, or local health or welfare programs; and

"(E) the project will comply with such other terms and conditions as the Secretary may prescribe to carry out the purposes of this section.

(b) The Secretary is authorized to make grants to public or nonprofit private agencies, institutions, and organizations, and contracts with public or private agencies, institutions, or organizations, for graduate or specialized training of physicians, nurses, other health personnel, social work personnel, and subprofessionals to improve their ability to provide family planning services and to do so more effectively.

"(c) The Secretary is authorized to make grants to public or nonprofit private agencies, institutions, and organizations, and contracts with public or private agencies, institutions, or organizations, for projects for research into or demonstration of new or improved techniques for the delivery of family planning services, with particular attention given to development of methods or techniques for making such services available to persons from low-income families.

"(d) For purposes of this section, what constitutes a low-income family shall be determined in accordance with criteria prescribed by the Secretary.

"(e) The Secretary is authorized to provide, or to make contracts for the provision of consultative services and technical assistance to public or nonprofit private agencies, institutions, and organizations providing or planning to provide family planning services.

"(f) Payments under this section pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and on such conditions, as the Secretary may determine.

"(g)(1) There are authorized to be appropriated for the fiscal year ending June 30, 1971 and each of the next 4 fiscal years such sums as may be necessary for grants and contracts under this section.

"(2) Such portion of any appropriation pursuant to paragraph (1) as the Secretary may determine, but not exceeding 1 per centum thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the program under this section.

"(h) The Secretary shall submit to the President and the Congress annually a report on the activities of the various executive departments in the field of family planning services, including his estimate of the extent to which the purposes of this section are being carried out."

REQUEST FOR AUTHORIZATION FOR THE COMMITTEE ON THE JUDICIARY TO MEET TOMORROW—OBJECTION

Mr. BAYH. Mr. President, I have been in discussion with the distinguished chairman of the Committee on the Judiciary, and as a result of that conversation, and with his blessing, I ask unanimous consent that the Committee on the Judiciary be permitted to meet tomorrow during the forenoon period.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, the tax bill will still be up tomorrow, as I understand, and I would like to be on the floor as much as I can, and I would object to the committee meeting while the Senate is in session.

Mr. BAYH. Mr. President, the Senator from South Carolina has every right to object, but I think the RECORD should show that the subject matter which all members of the committee realize is going to be discussed tomorrow is electoral reform. This measure has been the pending order of business before the Judiciary Committee since before the fall recess—in other words, since the middle of August.

As the primary sponsor—not the only sponsor—of that measure in the committee, I have tried my best to assume a position which would permit the flow of business through that committee and permit as much convenience to every Senator as possible. But I think the record should show that the same criteria which the Senator from South Carolina

used to prevent this committee from meeting and to prevent electoral reform from being discussed in the committee applied today. It applied Saturday. This is not the first time that efforts have been made to prevent the Judiciary Committee from discussing this important matter.

The fact is that the President of the United States has heartily endorsed electoral reform. The fact is that, by a vote of 339 to 70, the House of Representatives passed an electoral reform measure. I think it is most unfortunate that the Senate and the Judiciary Committee do not have a chance to work their will on this proposed legislation.

Mr. THURMOND. Mr. President, the electoral college reform bill would change the entire structure of this Government, and when that bill comes before the Judiciary Committee, I want to be there, and I want to be there every minute. The Senate is now working on a very important tax bill. A Senator cannot be in two places at once.

The distinguished Senator from Indiana went off to India for 3 weeks. If he was so interested in the electoral college reform bill, he could have stayed here and tried to have gotten it up at that time.

I do object to the committee meeting while the Senate is in session, and I reiterate my position in that matter.

Mr. BAYH. I think it is most unfortunate that the Senator from South Carolina suggested in any way, without directly alleging, as he did, that my membership in the congressional delegation to the IPU Conference was responsible for this matter not being considered. The fact is that it is patently untrue, and the Senator from South Carolina knows that, or ought to know it, because the agreement that was reached before the recess specified exactly what order of business would be considered. This is not the case. The fact is that the Senator from South Carolina is opposed to this measure and is using his rightful opportunity—I certainly respect it.

Mr. BAYH subsequently said: Mr. President, I would like to state for the RECORD that the Senator from Indiana in no way was suggesting that the senior Senator from South Carolina was taking unfair advantage of his parliamentary right. Indeed, I think he had a right to do what he did.

If this is the way the game is played, perhaps some of the rest of us should take advantage of this opportunity. I do not like to do that.

The senior Senator from South Carolina was not interested enough in the tax bill this morning to prevent the committee from meeting in connection with an important drug bill; and he was not interested enough in the tax bill this morning to take issue with the consideration of the omnibus crime bill, which has far-reaching implications.

If we are going to set one rule for the crime bill we should set the same rule for the electoral reform measure. But the Senator is preventing us from taking up that question. I want the RECORD to show the reason, so the public can be apprised of what is involved.

TAX REFORM ACT OF 1969

The Senate resumed the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. GORE. Mr. President, the Committee on Finance, unfortunately, upon the recommendation of the Assistant Secretary of the Treasury, has approved large new loopholes in the tax law if the committee bill as it now stands should become law. It provides for syndicate financing which, if approved, will allow tax avoidance of enormous proportions. It will permit the formation of syndicates to purchase and deal in tax deductions with respect to railroad boxcars, with respect to locomotives, rolling stock of all kinds, certain housing costs, pollution and pollution control equipment.

I will discuss the matter in more detail in a few moments but now I wish to extend the courtesy to the distinguished chairman of the committee to make a statement with respect to this subject.

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). The Senator from Louisiana is recognized.

Mr. LONG. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield briefly?

Mr. LONG. I yield.

Mr. JAVITS. Mr. President, I am concerned about the impact of the bill on "learned societies"; organizations whose activities are involved in scholarly research in the humanities. While I am confident that it was the intention of the drafters of the bill to exclude such organizations from the defined category of "private foundations," I would appreciate the Senator's views concerning the bill's treatment of some specific situations.

The distinguished Senator from Rhode Island (Mr. PELL) has graciously allowed me to ask these questions for both of us because I am a lawyer and he felt it might be more fitting for me to do so.

The first situation I am concerned with involves an organization of the above type which derives more than one-third of its normal support from sources consisting of membership dues—either from other organizations or individuals—and subscription proceeds arising from the publication and sale of a scholarly journal. The remainder of its support comes in the form of grants from a private foundation that has consistently supported the organization. While I recognize that under certain circumstances a private foundation will be considered a substantial contributor and its grant cannot be used in determining whether one-third of the support comes from the public, I assume nonetheless, such an organization would meet the "public support" test that the bill imposes and therefore be excluded from "private foundation" treatment.

Mr. LONG. The Senator is correct. Where more than one-third of an organization's normal support comes from sources such as membership fees—whether from individuals or member organizations—and gross receipts from organization activities which are in furtherance of its exempt purposes such as the sale of its scholarly journals—and assuming that it receives no more than one-third of its support from gross investment income it will be treated as one of the broadly, publicly supported organizations that has been excluded from the definition of private foundations. The remaining sources of the organization's support are not relevant to the statutory test of section 509(a)(2).

Mr. JAVITS. I am also concerned with the situation which arises where a membership organization of the type described above falls short of meeting the public support test. This may occur in the case of organizations which are regularly funded with large grants from substantial contributors or, occasionally, in the case of an organization that receives an unusual grant or bequest from a source. While I recognize that the Finance Committee expects appropriate provisions to be incorporated in the Treasury's regulations which will prevent organizations that find themselves in the latter situation from being treated as private foundations, it appears the statute also provides another type of solution. As I read proposed section 509(a)(3), I wonder whether membership organizations which fail to qualify under the public support test because they have insufficient public support as compared to support from qualified persons, may nevertheless remain outside the definition of private foundation. Section 509(a)(3) states that an organization which is operated exclusively for the benefit of or in connection with a public charity and is not controlled by disqualified persons will also be excluded from private foundation status.

Would not this section be applicable if an organization with two sources of support—say, membership dues and other income from public sources amounting to 25 percent of its total support and grants from disqualified persons amounting to 75 percent—were to transfer the activities that were normally funded by the membership dues and other public sources into a separate charitable organization which would thereafter be the recipient of all such grants? Assuming that neither organization is controlled by disqualified persons and that the new one is operated in connection with and to carry out the same purposes as the original organization, both organizations would literally be excluded from the private foundation definition—the new organization because all of its income would be from public sources—membership dues—and the original organization because it has been organized and operated to carry out the same purposes as the new organization.

Mr. LONG. Mr. President, I assume that the organization that would receive the membership dues and income from public sources would be, in effect, the parent organization. In such a case, the organization that would be expected to receive grants from disqualified persons should be the newly created organization. It would be operated exclusively for the benefit of what I have called the parent organization and would be operated by or in connection with that organization. Then, if none of the disqualified persons controlled the organization receiving the grants from disqualified persons, that organization would appear to

meet the tests you described in section 509(a)(3) and would not be a private foundation. It should be added that the public support test which the membership organization will have to meet will undoubtedly be set out in detail in Treasury regulations. Under those circumstances, it is not precisely clear how new organizations will be required to demonstrate their "normal" sources of support. With this caveat, however, I see nothing about your proposal which offends the intent of the proposed legislation. Indeed, as long as the parent organization is publicly supported, its subsidiary will not be considered a private foundation.

Mr. President, I believe I should state briefly for the RECORD—and I believe the Senator from Tennessee will explain his side of the argument in greater detail this evening—why the committee voted for the 5-year amortization provision involving railroad equipment.

The largest tax reform in this bill is the repeal of the investment tax credit. As we reported it from the committee we estimated it would raise for the Government about $3.3 billion a year in full operation. To achieve this, however, we felt we must resist industry amendments that would exclude first one industry and then another industry from the repeal of the credit. As a result, the Finance Committee finally voted against all industry exemptions.

It was our feeling that, once we agreed to make one exception, then other exceptions would follow. What has subsequently happened on the floor of the Senate is a good example of what I had in mind.

Although in committee we were successful in voting down other proposed exceptions, we initially could not defeat a provision which would have continued the investment tax credit for railroad rolling stock. The reason we could not do that was the critical shortage of railroad rolling stock and necessity that it be remedied as soon as possible.

Many of us knew that once that exception for railroad rolling stock was voted, the truckers would demand similar treatment, the airlines would demand similar treatment, and then the entire transportation system would demand similar treatment. Next, we would have others who have need of equipment press their dire need of modernization and expansion, with the result that soon we would have repeal of the investment tax credit dismantled item by item.

The administration recognized the same problem. It negotiated with representatives of the railroad industry and reached an agreement whereby the Treasury would support a proposal—the provision in this bill—to remedy the shortage of railroad rolling stock, instead of an exception from the repeal of the investment credit. This provision allows 5-year amortization of railroad rolling stock, including locomotives.

While this provision may seem generous with regard to railroads, the fact is that the equipment is badly needed. There should be incentive of some sort to help alleviate the shortage of railroad rolling stock in this country.

The provision for 5-year amortization for railroads will cost approximately $125 million in the first year, and will cost about $185 million by 1974. In addition, it would have continued indefinitely into the future. The provision voted by the committee, however, will terminate in 1974.

As a matter of fact, the provision in the bill also provides that the 5-year amortization would not be continued after 1972 for any class of rolling stock if the Secretary of the Treasury should find that the shortage of that class of railroad rolling stock had been corrected.

One might ask why we went beyond simply providing that the allowance for railroad rolling stock would be accorded to a railroad itself—that is, why we also allowed it to those who lease rolling stock to railroads. The problem here is that there are a lot of railroads that are not making a profit. Those railroads which are having difficulty financially and are not earning profits, and, therefore, are not paying taxes to the Government would not be in a position to take advantage of rapid amortization. It was pointed out to the committee that the incentive sought for the profitable railroads also could be made available to those railroads that are in a loss position by making the amortization available to persons who lease to railroads.

In other words, by making it possible for someone to buy railroad rolling stock and then lease it to a railroad not making a profit at a reduced rental reflecting the benefits of the amortization, the railroad would be able to obtain the equipment and the benefits of the amortization. The rental would reflect the tax savings and the railroad would be able to obtain equipment cheaper than it otherwise could.

Thus, in order to extend the same benefits to railroads losing money, the bill allows a person who leases rolling stock to a railroad to obtain the amortization. Thus, the railroad can lease the equipment from someone in a position to buy it who can pass on the benefits of amortization to the railroad.

This is the way the committee sought to see that both railroads losing money as well as those making money could benefit from this provision that is designed to alleviate the railroad rolling stock shortage.

Now I have no doubt in my mind that in the committee, and I believe on the floor, an amendment would have been agreed to, to make an exception from the repeal of the investment credit in the case of the railroads, if something of this sort had not been agreed upon. Under the circumstances, we had a bill that had no exemption for any particular industry. We were successful in defeating an amendment offered by the Senator from Nevada (Mr. CANNON) which would have exempted the entire transportation industry from the bill.

In my judgment, had we not agreed upon the amortization provision, we would have had the exemption voted first for the railroads, and then an exemption for the truckers, and then an exemption for the airlines, and ultimately for the entire transportation industry. Then there would be little left of the $3.3 billion revenue increase proposed to be achieved. We have seen how difficult it is to defeat some of the amendments which have popular appeal.

Already, there have been two amendments voted that have reduced what he hoped to gain in the bill by over $1 billion; namely, the amendment offered by the Senator from Indiana (Mr. HARTKE), the so-called small business amendment, at a cost of $720 million, and the amendment offered by the Senator from Alaska (Mr. STEVENS) to help depressed areas, at a cost of about $300 million. Had we not done something of this sort, I suspect by now that there would have been nothing left worth repealing with regard to the investment tax credit and no savings would have been achieved.

Let me read one paragraph of the committee report:

It is also provided that the Secretary of the Treasury (with the assistance of the Secretary of Transportation) is to issue regulations indicating particular classes of cars or locomotives which are not considered to be in short supply. Rolling stock in these specific classes of cars or locomotives which is placed in service after 1972 is not to be eligible for the 5-year amortization writeoff.

In other words, the effect of the provision is terminated once it is determined that there is no longer any shortage of this kind of equipment. In addition to that, there is also a provision in the bill which requires the reconsideration of the entire provision in 1974.

I believe that under the circumstances, faced with the practical situation, the committee handled it about as well as it could to deal with the problem. I would hope that on tomorrow, the Senate, in its judgment, will see fit to support the position of the committee in this matter.

Mr. PELL. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am happy to yield to the Senator from Rhode Island.

Mr. PELL. I have one question in connection with railroads and the use of the investment credit for purchase of new equipment. What portion of that will be used for freight hauling equipment and what portion for passenger equipment?

Mr. GORE. There is no requirement in the bill. The benefits here will be available for syndicates who wish to purchase or lease any sort of railroad equipment and locomotives, passenger cars, or freight cars, and I suppose will use the date to work out the question of the portion of railroad business which is freight—and that most of it would be freight.

Mr. PELL. That is my understanding. I understand that this measure is of very little assistance to the passenger railroad business, but I want to be sure of my facts. I am asking for enlightenment.

Mr. GORE. I thank the able Senator from Rhode Island.

Mr. LONG. Mr. President, will the Senator from Tennessee yield to me in that respect?

Mr. GORE. I am happy to yield to the Senator from Louisiana.

Mr. LONG. The Senator is most gracious.

Mr. President, this provision does cover passenger equipment and, insofar as it is needed, passenger equipment would

be allowed the same liberal amortization. But after 1972, there would have to be determination that there remains a shortage of that specific class of equipment. So that if by 1972 the shortage had been rectified—which I doubt will have occurred—then that class of equipment no longer would be allowed rapid amortization.

Mr. PELL. As I understand it, today there are very few, if any, passenger railroad cars being built, except the new ones like the Metroliner, the Turbotrains, and very few others. In fact, the estimated benefits of this provision will be 99 percent or 98 percent enjoyed by freight railroad as opposed to passenger railroad. Would that be correct?

Mr. LONG. We expect that it would be overwhelmingly to the advantage of the freight aspects of industry because the railroads find that more profitable than they do passenger service. As the Senator well knows, the railroads are trying to get rid of their passenger service, I regret to say. If they had their choice, I believe they would probably like to have antiquated equipment as an excuse to discourage the public from using it, so that they could have a better opportunity to persuade the Commission to go along with discontinuing that service, in many instances. But I would hope that in the metropolitan areas, including that so ably represented by the Senator from Rhode Island (Mr. PELL), we will see more of these Metroliners, and more of the modern equipment that is bringing some passengers back to the railroads.

I rode the Metroliner for the first time a couple of weeks ago, and I was very much impressed with it. It was good service. It offers some hope for the future.

Mr. PELL. I completely agree with the reactions of the Senator in charge of the bill, my good friend from Louisiana (Mr. LONG). The railroads would much rather haul things rather than people because they make more money hauling things, freight. I am sure that they would be overjoyed if their passenger equipment all fell apart. The Senator is absolutely right.

Mr. GORE. Mr. President, all of the sins of the provision are being committed in the name of rolling stock. All I can hear about this provision is the need for rolling stock, the emergency there is for rolling stock. But this is only part of the provision.

Since we have heard so much about rolling stock, I shall begin with rolling stock.

The bill gives a 5-year amortization period for rolling stock; and rolling stock includes locomotives. We see pictures showing wheat being piled on the ground in Kansas, but wheat has been piled on the ground in Kansas for many years. We could double the amount of rolling stock and it could not roll the wheat to market the first week.

But granted that there is a need for rolling stock, I have heard no suggestion that there is a shortage of locomotives. Yet this measure gives rapid amortization for locomotives.

But it also specifically makes the tax advantages available to investment syndicates who purchase and lease boxcars, and become recipients of the tax deduction provisions.

Moreover, the measure provides a double benefit for locomotives and railroad cars—freight cars and passenger cars—to the extent that those facilities are now on order and eligible for the investment credit. It would allow the double benefit of an investment credit and rapid amortization for the same boxcar, the same locomotive. The railroad lobbyists have certainly performed well from the standpoint of their employers. Let me say to the distinguished Presiding Officer that this measure permits the railroads to start amortizing the grade for the Golden Spike. They have never had an opportunity before to amortize a roadbed or a tunnel, but though a tunnel was built 100 years ago, this bill permits a railroad now to start amortizing the tunnel the railroad has been using for 100 years—in the name of rolling stock.

Under this bill, the Pennsylvania Railroad could start amortizing the roadbed from Washington to New York. It has been in use quite a few years, and never before has Congress allowed a roadbed or a tunnel to be amortized. But this bill does—in the name of rolling stock. That is what we have all heard about—the shortage of rolling stock. There is no shortage of tunnels.

Mr. President, this is an enormous new loophole. In a bill of 500 pages, primarily for the purpose of tax reform, to strike down tax inequity, we open up a large new loophole for wealthy investors in high-income brackets to take advantage of the tax deductions provided herein.

Mr. President, each Senator knows that an investment credit or a tax deduction is worthless to a person or a company that has no tax liability. The railroads that need equipment most are those losing money. What is a tax deduction worth to a railroad losing money? It will not be worth anything to that railroad, but it will be worth a great deal to the investing syndicates, and the syndicates will reap a big profit.

Mr. President, the following example shows how an investment syndicate would profit under the provisions of this bill.

The railroad arranges for a syndicate of wealthy individuals to purchase the boxcars. The purchase price is put up entirely with a loan from the railroad's financier.

The "rent" paid by the railroad is exactly set to retire the loan and pay the interest thereon. Usually the rent never goes through the hands of the lessors at all. Indeed the financing institution generally looks only to the credit of the railroad to pay off the loan.

There is no cash-flow benefit to the lessors. Their sole profit comes from the rapid amortization that they use to offset their other taxable income. The "profit" is the amount of the tax reduction resulting from the artificial amortization deductions.

Mr. President, this applies not alone to railroads, this is a syndicate tax loophole being created in this bill. It applies also to cost of renovating of certain housing.

We have talked a great deal about the loophole of the hobby farmer. We have talked a great deal of the Wall Street cowboy and how he was converting high tax dollars to low tax dollars through losses from a horse or cow or citrus orchard.

We have now before us a new provision to create Wall Street railroaders, Wall Street remodeling investors, Wall Street pollution investors, because the same rules which the Senator from Delaware (Mr. WILLIAMS) and I have offered an amendment to strike provide that the tax benefit can go to investment syndicates for these purposes also.

But to continue, Mr. President, with respect to railroads, this measure grants amortization for gradings and tunnels regardless of when they were built.

Amortization and depreciation are supposed to be based upon the length of life of a facility. How long will a tunnel through the Rocky Mountains last? They have been lasting for perhaps 100 years. Nobody indicates they will not last another 100 years. Yet this provision permits its amortization in 50 years. In other words, it permits the railroads to start deducting from their taxes for tunnels that were built 100 years ago or 150 years ago—whenever it was. And yet all we have heard about is rolling stock.

How much will these provisions cost with respect to railroads? An estimated $185 million a year. That is a good sized loophole.

And yet in the committee report it was called tax reform.

Now let us talk about the rolling stock, which the investing syndicates are to provide.

I am advised that the average useful life of railroad freight rolling stock is about 14 years.

But the committee provides that this equipment can be depreciated in 5 years. So you see Mr. President we are permitting a tax deduction through amortization of the entire cost in about one-third the period of time that the rolling stock will be useful.

This rapid writeoff will be of no benefit to a railroad that has no profit. A railroad in South Carolina operating just on the edge may be badly in need of a new locomotive or some new freight cars. This gives them a rapid writeoff which means of course that they can deduct the cost from their taxes more rapidly than the railroad car or the locomotive will wear out.

But I repeat that is of no benefit unless that railroad has a profit. Who is going to get that benefit? Some high bracket taxpayers who will enter into a syndicate to execute a purchase and lease of the equipment. And what happens? We have seen copies of this kind of contract. The amount of the rent and the amount of the amortized loan exactly equal up; and who gets the benefit? A group of doctors or Wall Street investors in the 70-percent bracket.

POLLUTION CONTROL FACILITIES

The committee bill also provides 5-year rapid amortization for certain pollution control facilities.

The Finance Committee considerably tightened the House version. However, the fact remains that we are utilizing the tax system to grant $120 million to cor-

porations to clean up pollution created by processes on which they have been making profits for the past 100 years or more. This expenditure is inefficient and may well run counter to the most effective means of achieving pollution control.

In 1967 a working committee on economic incentives submitted a report concluding that tax writeoffs are not needed nor are they desirable for achieving pollution control. This working group was made up of representatives of the Bureau of the Budget, the Treasury, the Council of Economic Advisers, the Water Resources Council, the Office of Science and Technology, the Department of the Interior, Department of Commerce, HEW, and Resources for the Future.

I set forth pertinent parts of the report:

COST SHARING WITH INDUSTRY?

(Summary Report of the Working Committee on Economic Incentives (Revised), the Working Committee is one of several Committees under the direction of the Federal Coordinating Committee on the Economic Impact of Pollution Abatement, November 20, 1967)

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Proposals for assistance

Various proposals for additional assistance to industry beyond obvious improvements or expansion of existing Federal programs were evaluated as follows. Across-the-board assistance for capital investment such as tax writeoffs (credits or accelerated depreciation) and grants are unnecessary because the burden of pollution abatement is estimated to be only moderate. Also, this form of subsidy is inefficient because such assistance provides an incentive for excessive use of capital and practically excludes similar assistance to process changes that jointly reduce pollution and increase productivity. Moreover, such aid is likely to be an undesirable precedent for using tax writeoffs for other programs (e.g., education, training, housing, etc.).

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Recommendations

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4. Across-the-board cost-sharing in the form of tax writeoffs is not recommended because it distorts the tax structure, causes the total cost of pollution abatement to rise significantly, promotes excessive use of capital equipment and waste treatment facilities, and discourages selectivity in environmental quality management. Across-the-board use of grants and loans is similarly handicapped and, in addition, is subject to fluctuations in Congressional appropriations.

POSSIBLE ADDITIONAL FEDERAL SUBSIDIES

Introduction

It was noted that the Federal Government is now spending $\$\frac{1}{2}$ billion per year for both air and water pollution abatement and this amount is forecast to increase markedly during the next five years. The largest proportion of these funds are now funneled through municipalities. Industry also receives considerable assistance from the 7% investment tax credit and allowances for accelerated depreciation—perhaps as high as $50 million annually. The size of current annual expenditures by industry for water pollution abatement is roughly estimated at $\$\frac{2}{3}$ billion for water and an unknown amount for air—or perhaps roughly equal to the current Federal Government expenditure and subsidy for this area. The Government is already carrying a large part of the burden.

The requirement for additional expenditures is a function of water and air quality standards, plant location, topography, stream capacity, meteorology, production processes, and pollutants. Before all of these factors are weighed, only some rough estimates of additional annual cost and burden for manufacturing can be made: $275 million and 0.13% of value-added by manufacturing for water and $354 million for air—or $629 million and 0.29% of value-added for both air and water (excluding thermal-pollution abatement). For individual industries, firms and plants the burden is likely to vary widely.

Finally, it is not clear that pollution abatement need affect the firms' rate of profit insofar as individual firms have considerable flexibility to shift the small increase in the costs from themselves to the purchasers of their products. It is with this summary and introduction in mind that the possible Federal subsidies will be examined.

TAX WRITEOFFS

Numerous proposals in Congress have been made for offering greater assistance to industry through increasing the investment tax credit or accelerating the depreciation allowances on capital expenditures for pollution abatement. Proposals range from increasing the investment tax credit from 7% to 14% or 20% and/or from allowing depreciation allowances normally scheduled over 15 years to be scheduled over five, three or even one year. The additional capital subsidy would range from 7% for raising the investment tax credit to 14% to 33% for implementing a 20% tax credit and a one-year accelerated depreciation schedule. (See Table X). The subsidy would total roughly $296 million for water and $75 million for air for the three-year accelerated depreciation allowance if applied to an estimate of the additional capital required to meet the hypothetical standards considered in this report.

However, the subsidy is in a small part illusory because the assistance would be given for a higher level of expenditure caused by the subsidy creating an incentive to over-use capital to the neglect of operating and maintenance expenditures. This would arise because capital costs are made artificially cheaper by virtue of a tax writeoff. Tax writeoffs are handicapped because they are incapable of providing assistance to all of the costs of abatement. The capital cost accounts for roughly one-third of the total cost for water pollution abatement and one-eighth for air pollution abatement. Of course, with subsidies given to capital alone, the capital cost proportion will tend to rise and unnecessarily consume more resources. The addition of chemicals or supervisory personnel often times is less costly than building additional capacity in order to treat larger waste loads. Fuel substitution alone is estimated to be the least-cost alternative in over 60% of the cases involving air pollution abatement.

Moreover, tax writeoffs are difficult to apply to many changes in the production process which reduce the actual generation of waste loads but which also add to the output of plants. Other studies have shown that some industries find that over 50% of the least-costly opportunities for reducing waste load discharges are found in such process changes.* The Treasury Department would be faced with the difficult task of certifying the proportion or the cost attributable for pollution abatement or disallowing any assistance for this kind of improvement. To the extent of the proportion disallowed, plants would be given an incentive to *ignore* many improvements which have been shown to be least costly.

Also, the implementation of selective writeoffs for pollution abatement opens the door for other programs to receive similar treatment. Proposals for tax writeoffs for training, education, mining, transportation, housing and others have already been made. The snowballing effect for industry could be, conceivably, a necessary increase in the corporate tax structure or lag in the long-run reduction of corporate tax rates and thus no net benefit to firms facing pollution abatement expenditures. Moreover, public accountability of such subsidies are difficult and would probably create an annoying problem in its removal once social policy dictates a change.

TABLE X.—COMPARISON OF THE ADDITIONAL SUBSIDY TO INDUSTRY THROUGH ALTERNATIVE FORMS OF FEDERAL ASSISTANCE [1]

Type of assistance	Subsidy as percent of capital cost	Subsidy as a percent of annual cost [2]		Rough estimate of likely assistance to industry for capital expenditures to meet hypothetical standards in 5 years 1969–73 [3] (millions)	
		Water	Cost	Water [4]	Air [5]
Accelerated: 5 yrs.	13	5	2	$241	$61
Depreciation:					
3 yrs.	16	6	3	296	75
1 yr.	20	9	4	370	94
Additional (7 plus 7)	18	2	1	130	33
Tax credits (13 plus 7)	25	5	2	251	61
Accelerated depreciation and tax credit combined:					
14 percent credit and 3-yr. accelerated depreciation	35	10	5	426	108
20 percent tax credit and 1-yr. accelerated depreciation	46	17	8	611	155
Reduced interest loans: [6]					
6 percent (3 percent below discount rate)	11	4	2	204	52
4 percent (5 percent below discount rate)	17	7	3	315	80

[1] Assume 48 percent effective tax rate, 15-year functional life (straight line) for pollution abatement facilities and 9-percent discount rate. Excluding accelerated depreciation now available in existing tax laws; e.g., sum of digits or double declining balance.

[2] Includes annual capital cost (amortized) and operation and maintenance expenditures, increase in total cost of abatement because of excessive use of artificially cheaper capital costs.

[3] Assuming all capital expenditures are subsidized whether to industry or households. *Capital costs* would undoubtedly drop after the initial investments are made to achieve standards.

[4] Based on industrial profiles: $1.15 billion additional investment plus $0.7 billion replacement investment which equals $1.85 billion for BOD and suspended solids for hypothetical standard of 85 percent treatment of industrial wastes.

[5] Assuming 20 years of additional capital investment is made in 5 years. The total capital as indicated by the "typical city" study should be $470,000,000 to achieve a hypothetical standard of reducing human exposure by 60–75 percent of SOx and particulates.

[6] 15 years, straight reduction loan, 9 percent discount rate for industry (if assume 6 percent then zero gain for 6 percent interest loan and 7 percent or $71,000,000 gain for 4 percent interest loan).

In summary, clearly tax writeoffs are not needed nor are they a desirable form for offering further assistance to industry.

Mr. President, it is sometimes argued that industry cannot afford to make the expenditures required for pollution control. However, the report shows that the additional cost of achieving Government standards of pollution abatement would

* For example in the case of water, see Kneese, Allen and Lof, George. *The Economics of Water Utilization in the Beet Sugar Industry,* Manuscript, Resources for the Future.

only amount to $0.5 billion for all manufacturing concerns annually, or one-half of 1 percent of the value added by manufacturing. The report points out that there are already many Government programs to reduce the cost of pollution control. Indeed, we have recently passed in the Senate a $1 billion anti-pollution measure. As the report concludes, tax incentives simply are not needed, especially when they produce the unfairness and inequity in the tax system that they in fact do.

HOUSING REHABILITATION

The committee bill provides that rehabilitation costs of certain low- and middle-income housing can be amortized over a 5-year period.

As the committee report itself shows, fast depreciation for real estate is an unjustified tax preference.

Rehabilitation of low- and middle-income housing apparently has such a low priority in our national housing policy that HUD does not even request funds for it. Yet in a tax bill, the tax-writing committees of the Congress—which have no expertise in real estate or housing matters—are providing $330 million for a purpose on which no data is available to indicate the effectiveness or desirability of the expenditure.

This provision is unfair from the standpoint of tax policy. The effect of the 5-year writeoff is to provide an interest free loan to the slumlord in the amount of the taxes he otherwise would have paid had proper depreciation been allowed. The benefit of this interest free loan is far greater to the 70 percent taxpayer than for the 20 percent taxpayer. For example, if a 70 percent taxpayer makes expenditures that have a useful life of 20 years, and he would otherwise earn 10 percent on his money, the effect of the Government loan in the amount of his tax savings is to reduce his interest costs by 5 percentage points, from say 8 percent to 3 percent.

However, a 20-percent bracket taxpayer making the same rehabilitation expenditures would get a reduction of his interest costs of only 1 percentage point.

If HUD proposed a Government assistance program to rehabilitate low- and middle-income housing that provided for direct loans at a 3-percent interest rate to 70-percent bracket taxpayers and a 7-percent interest rate to 20-percent bracket taxpayers, the responsible congressional committees would quickly throw the proposal out. Yet that is exactly the system that has been adopted by the Finance Committee in the bill.

I refer Senators to a statement submitted by Prof. Charles Davenport to the Finance Committee which substantiates the analysis I have just made. Mr. Davenport was formerly with the Treasury, is now a professor of law at the University of California at Davis, and is an expert in tax depreciation matters. His statement appears in volume 5 of the Finance Committee hearings, page 4903.

SPECIAL PROVISIONS IN THE TAX REFORM ACT OF 1969

Mr. KENNEDY. Mr. President, the Tax Reform Act of 1969 is designed, says the committee report accompanying it, to meet the "common goal of a fair and more efficient tax system." The report further states:

> In the long run, tax reform should also lead to simplification by redirecting effort from tax avoidance to productive economic effort.

The single most significant element in developing public support for this tax reform bill was the disclosure earlier this year that in 1966, 21 individuals with incomes of over $1 million a year paid no income tax at all. We heard much, shortly after this disclosure, of what came to be known as the "taxpayer's revolt." This revolt revolved around a single concept—equity. How could we have constructed a system, American taxpayers wondered, which lets the rich and clever escape taxes but severely crimps the budgets of the not-so-rich?

The committee report phrases a general answer to this question:

> From time to time, since the enactment of the present income tax over 50 years ago, various tax incentives or preferences have been added to the internal revenue laws. Increasingly in recent years, taxpayers with substantial incomes have found ways of gaining tax advantages from the provisions that were placed in the code primarily to aid limited segments of the economy. In fact, in many cases these taxpayers have found ways to pile one advantage on top of another.

The report adds:

> This fact has seriously undermined the belief of taxpayers that others are paying their fair share of the tax burden. It is essential that tax reform be obtained not only as a matter of justice but also as a matter of taxpayer morale.

The Committee on Finance has adopted a number of significant provisions to restore some measure of equity and to restore some measure of taxpayer confidence. A few of these provisions have been strengthened by amendments on the Senate floor, and the long-range effect, I think, will be beneficial to public confidence in the tax system itself.

One issue, however, has not yet been discussed in any detail, in the committee report or on the floor. This is the issue of special provisions inserted in the tax code for the benefit of a particular individual, a particular corporation, or a particular industry.

I would point out that special provisions have been a part of the tax laws ever since we have had tax laws. One of the most long lived of all—known technically as the "unlimited charitable deduction for individuals" and colloquially as the "Philadelphia nun provision"—is virtually eliminated by the present bill, after being in the tax law since 1924. There are hundreds of others, and I have prepared an illustrative listing as exhibit 2.

These special provisions, though they have been a part of nearly all of our tax bills, are generally hidden from public view. As this has been the case historically, it is also the case with the bill before us.

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

Mr. KENNEDY. I yield to the distinguished chairman.

Mr. LONG. All the Senator has to do is read the newspapers. Many of the provisions in this bill have to do with the problems of some particular group.

I noticed the press release of the Senator yesterday referred to Loyola University, operated by the Catholic Jesuit order, which very much needs what it can earn from a pioneer radio station that has resulted in their presently having a television station, for the education of children in New Orleans.

When that provision was voted on in committee, it was the result of the fact that Father Jolley, the president of Loyola University, and others came and asked for the right to be heard before the committee and testified before the committee in the presence of a filled committee room, and explained how adversely the House language affected Loyola University.

When the committee subsequently voted to give the kind of relief for which Father Jolley and those who accompanied him had testified, I was present, I believe, when we announced that matter to the press; and before announcing the amendment, we said, "Here is an amendment that was sought by Loyola University with regard to the problem that the Jesuit order has there, in trying to educate the young people at Loyola University. It involves Station WWL–TV and Loyola University."

I do not call that any sneak procedure—the matter was testified about in open session, in the committee room, and everyone knew about it.

I have discussed this matter with the press, and they have told me there has never been a major revenue bill where the press was so completely alerted, and where items were so fully explained, and where who was requesting the tax relief was so well identified, as this one. So if the Senator wants to find fault with this committee in that it does not write the names of everyone affected into the report, I suggest that he would direct his criticism against every Senator who has served on this committee since it was established more than 150 years ago.

I regret that we did not identify the Western Massachusetts Electric Co., in case the Senator from Massacusetts was interested in that. We adopted the principle, and we thought it was fair, that if it appeared that general tax language could be drafted to meet the problem that should be corrected, as well as that of someone else who might meet the same general standard. But I believe if the Senator will go back and read the Washington Post and the Washington Evening Star accounts of the committee sessions, amendment by amendment, he will find that the committee identified amendments quite generally and what industrial interest or what university or what particular group it was that was affected by the particular problem to which the section was addressed.

It was rarely that we would draft a section which was not applicable to someone else whose situation is generally the same. Since that is the way it has always been done with reference to both the committee and the Senate, it would seem that it would not be incumbent upon us to start a precedent; and if the Senator wanted to do business that way,

the Senator should have suggested it to us, rather than attack us for doing something sneaky when, in most instances, I submit, the people affected came before the committee and testified, "Here is our problem, and we urge that it be considered."

Mr. KENNEDY. Mr. President, I will explain the full purport of the reasons have I raised these questions. It is really a question of the procedures which are followed.

The Senator mentioned the fact that a number of the amendments were reported in the Washington newspapers, and he referred specifically to the Post and the Evening Star.

It so happens that in the research for this speech, we did review the newspapers. A number of different amendments were accepted which were not reported in the newspapers.

I hope the Senator will give me a chance to run through these remarks, because there is in them no accusatory finger pointed at the chairman of the committee or at the committee itself. However, we are talking about the degree of public confidence in a reform measure. And when we have in the legislative background of the measure the special provisions which were included and which were eliminated under the leadership of the chairman in closing many loopholes, I think it is useful, and does help to provide a greater degree of public confidence, particularly when these matters are laid out on the public record.

I know that the chairman of the committee has been on the floor day after day explaining the various provisions of a very complex and far-reaching measure. I am not saying that the chairman of the committee or the members of the committee are trying to act in secrecy, and are trying to keep these matters from the public. I never made that suggestion in my remarks. I have suggested, however, that they have not been as readily available to the public—as I will develop—in the report or in the bill, and I think it is useful in terms of public confidence to have it known. So, this is really the basic reason for my pointing this matter out.

Mr. LONG. Mr. President, was the Senator correctly quoted this morning in the Washington Post which said:

> Kennedy did not imply there was any wrongdoing in any of the 15 instances. But he did object to "legislating these special provisions in secrecy."

Mr. KENNEDY. That is correct.

Mr. LONG. Will the Senator tell me what if any committee ever holds its executive sessions in public?

Mr. KENNEDY. I know of no committee that holds executive sessions in public.

Mr. LONG. Well, what is so secret about the committee holding executive sessions?

Mr. KENNEDY. Mr. President, if the Senator will be kind enough to let me continue with my remarks, I will try to explain my thinking. I then will be delighted to respond to the other inquiries of the distinguished chairman.

Nowhere in the 352-page report, or the 585-page bill, is there any indication of these special provisions, with the exception of a few for industry groups.

I see no reason for legislating these special provisions in secrecy. If an explanation of them is made part of the official legislative history of this tax reform bill, I think that public confidence in the Government process will be enhanced. Furthermore, administration of the law by the Internal Revenue Service will be strengthened.

Consequently, I will list those special provisions in this bill which have come to my attention. Undoubtedly, there are additional special provisions, of which I am not aware. It is my intention to add to the list I have today, when and if others come to my attention, because of my belief that they should be made part of the public record of the bill.

Mr. LONG. Mr. President, will the Senator yield at that point? I will have to leave the Chamber shortly.

Mr. KENNEDY. I yield.

Mr. LONG. Mr. President, with regard to a great number of provisions in the bill, I, like most Senators, did not ask who might be affected or who might not be affected by this or that provision. A great many of the suggestions came from the Treasury Department after they had studied the matter. In many instances it arose because they were studying problems affecting many people. In some cases, one taxpayer might have been involved or perhaps to have initiated action on a provision. However, as the Washington Post correctly pointed out in this regard, insofar as these suggestions were agreed to by the committee, they were applicable to all similarly situated people.

I voted on some of the measures to which the Senator refers without regard to who was involved. With regard to the Cafritz matter, it made no difference to me who was involved. A valid problem existed and we felt it should be corrected, not just for that particular situation, but for like situations. We knew it would have wider application and would apply to other people.

There are at least 100 amendments in the bill, probably nearer to 200, with respect to which the staff and the Treasury were aware of the tax problems existing for American taxpayers. They had been studying these matters since tax reform first came under consideration in the House, and perhaps even before that.

The staff and the Treasury had hundreds of recommendations and suggestions about things that we might be disposed to do or might not want to do.

I believe that in the case of about 90 percent of them, neither I nor anyone else had knowledge as to who the taxpayer was that might be involved in the matter, if, in fact, a particular taxpayer was involved. Most of them involved limited situations. But they appeared to be right. We voted on that basis.

With regard to one of the 15 examples the Senator picks out that involves me, that situation does involve Loyola University and the Jesuits. It involves New Orleans and it involves Louisiana. It involves WWL–TV and WWL radio.

If the Senator had presented that matter to the committee and said he wanted information about the matter, I am sure the matter would have been explained to him. There was testimony on behalf of Loyola University on the problem involving these people.

I explained it the best way I knew how and explained that the provision was apparently drafted to cover that situation. Later, it was reported to the press, and again the name of the case was mentioned.

It was not intended to be limited in principle. If someone else had a similar situation, that would have been covered. The Senator from Iowa (Mr. MILLER) found a State-supported university in Iowa where it was also made applicable.

Mr. KENNEDY. It was extended by a technical amendment to that university on Friday last.

Mr. LONG. Mr. President, if the Senator said that he knew of a State university that had this same problem, I would be happy to accept the amendment and say that it applied to the State-supported college.

I submit that insofar as the Senator's press release implies that there is anything wrong or improper about anything in the bill, particularly about the fact that the committee met and did not publish the name of every taxpayer involved, I submit that there is no way on the good Lord's green earth that we could have done otherwise.

If the Senator had inquired, he could have asked about any provision in the bill, and I would have been glad to have identified for him any taxpayer who expressed any interest in the bill.

So far as I am concerned, certainly those the Senator mentioned in the press release, most of them had testified in the public hearings on the bill. And everyone should have been on notice that they were matters that the committee would consider.

In most cases, I think the chairman assured those witnesses that their problems would be considered before we disposed of the bill.

Mr. KENNEDY. Mr. President, as I get farther into my remarks, I point out that I do not reach any kind of judgment whether anyone should be condemned. As a matter of fact, I say specifically that the situation is not to be condemned out of hand.

I prefer to complete my remarks, which respond to many of the points the chairman has raised. I do not try to reach any kind of moral judgment as to whether this is right or wrong. I point out that it is a fact that these special provisions are not really developed in the report of the committee itself, and that, as the Senator has just mentioned, a particular provision accepted within the Finance Committee was expanded to meet a situation in Iowa.

I think taxpayers are aware of the special provision included in the 1924 act, which was then raised for very legitimate reasons. Yet it has become one of the great tax loopholes of all time. We are fortunate that it was closed by the members of the Finance Committee in this bill.

What I am trying to do, by these remarks, is to inform the Members of this body in an organized way, although

probably not in as comprehensive a way as could be. There probably will be other examples. I am sure the distinguished chairman of the committee wants as complete a framework of discussion laid out as I do. I know, as he has stated, that there was no effort on his part to conceal on these questions. The fact remains that they are not in the record or in the official legislative history.

Mr. LONG. Does the Senator's conscience bother him that he asked the committee to look at the problem of the Western Massachusetts Electric Co.?

Mr. KENNEDY. I am just at the point of starting off on the list of special provisions. As a matter of fact, I lead off with Massachusetts. I would like to raise that, and discuss it as I do in my remarks.

Mr. LONG. If the Senator's conscience troubles him about that matter, I would like to know, because we could perhaps unburden him of that problem. I assume he wants to strike it out of the bill, having asked to put it in.

Mr. KENNEDY. If the Senator will remain in the Chamber, and will hear the description. I believe that the Senator will believe that that case, as well as other cases, had merit, and that the committee decided it on that basis.

As I start off with Western Massachusetts Electric, I explain that I do believe there were legitimate reasons for its inclusion, as with many of the others. But I did raise the Massachusetts case in this. There is nothing in the Massachusetts case that ought to receive special consideration, outside of the merits. The Massachusetts company had changed its various accounting procedures, had not yet been cleared by the State regulatory agency, was attempting to live up to its requirements, and certainly should have been included.

I want to proceed at this time, and I will proceed; and if the Senator has additional questions, I will be delighted to respond to them.

A technical listing of these provisions appears as exhibit 1. It includes both the special provisions for particular corporations, as well as selected special provisions for particular industry groups. I will not read exhibit 1, because of its technical nature, but instead only summarize it. In addition, I will suggest a number of possible solutions to the difficult problem of treating the special provisions, by way of general policy in the future.

LIST OF SPECIAL PROVISIONS

First. I would like to point out, first, that the committee adopted, partially at my request, a special provision which benefits the Western Massachusetts Electric Co. The provision would permit this company to change its method of accounting; the generally applicable provision in the bill would prohibit it.

Second. The Benwood Foundation, of Chattanooga, Tenn., would be permitted to continue ownership of the stock in a number of unrelated businesses. Under the generally applicable provision in the bill, the foundation would otherwise be forced to sell the bulk of this stock.

Third. The Morris and Gwendolyn Cafritz Foundation of Washington, D.C., would be exempted from the imposition of certain immediate stock divestiture requirements, which would otherwise be imposed under the generally applicable rules.

Fourth. The El Pomar Foundation, of Colorado Springs, Colo., would not be subject to the general divestiture requirements in its ownership of stock in the Broadmoor Hotel, under a special exception to the general rules.

Fifth. The Olin Foundation of New York City would receive similar treatment on its 100-percent ownership of the Federal Cartridge Corp., under the same exception.

Sixth. The Herndon Foundation of Atlanta, Ga., would not be subject to the general divestiture rules in its ownership of a number of insurance companies, under a similar exception.

Seventh. The James Irvine Foundation of San Francisco would be forced to dispose of most of its stock in the Irvine Co. on an accelerated basis, under a special restrictive provision.

Eighth. Loyola University, in New Orleans, La., would be exempted from the unrelated business income tax on CBS-radio affiliate WWL, which it owns, under a special exception to the general unrelated business tax rules in the bill.

Ninth. Litton Industries executives would be excepted from a new, generally applicable, tax on stock options, under a special provision.

Tenth. The Transamerica Corp. would be permitted the existing rapid depreciation of a new, nonresidential building, which would be unavailable to the corporation under the general provision in the bill.

Eleventh. Taxes on bonds benefiting the University of Virginia would not be subject to the generally applied new rules applied to arbitrage bonds, under a special provision.

Twelfth. The Mobil Oil Corp. would be saved $12 in taxes under a special exception to the repeal of the investment credit.

Thirteenth. Uniroyal, Inc., would be saved $3 million under a similar provision.

Fourteenth. The Lockheed Aircraft Corp. would save $14 million under a similar provision.

Fifteenth. The McDonnell-Douglas Corp. would be saved $6.5 million under a similar provision.

These 15 provisions are, broadly speaking, limited to the specific corporations or foundations or cases I have mentioned. In addition to these very specific provisions, there are others which benefit specific industry groups. These include:

First. Nineteen oil pipeline companies, permitted to change their methods of accounting for depreciation; most other regulated industries are not permitted to change.

Second. Oil pipeline companies and coal producing companies generally are exempted from the repeal of the investment credit, if they meet certain criteria.

Third. Companies which must acquire barges to service oceangoing "mother ships" are also excepted from the general repeal of the investment credit.

As I said earlier, I am sure this does not exhaust the list of special provisions. But it does give some idea of their number and their breadth.

One of the most serious problems with them is their unintended beneficiaries. The example of the Philadelphia nun is a good one. It was originally enacted in 1924 to cover the case of a wealthy Philadelphia woman who entered a religious order. The provision insured that her wealth went to charity virtually untaxed.

But down through the years, other taxpayers with substantial incomes have found ways of gaining tax advantages from this specific provision. The latest complete statistics are for 1966, and they reveal the following information:

Roughly 100 taxpayers used the provision that year, all of whom had yearly incomes in excess of $1 million.

This provision was the major factor in eliminating taxes for 49 of the 154 individuals with incomes over $200,000 who paid no taxes in 1966.

In one specific case, an individual had a net income of $9.7 million. Because he qualified for this provision, he paid no tax on his $9.7 million income, but had it free to spend, and paid no tax on the rise in market value of the securities.

This provision costs the Treasury $25 million a year in lost revenues.

To summarize, the provision put into the tax code to take care of a specific case, the Philadelphia nun, subsequently became available to hundreds of other wealthy individuals who rearranged their financial affairs to qualify for it.

POSSIBLE SOLUTIONS

As I earlier pointed out, this is not a new situation. Neither is it a situation to be condemned out of hand. There are, many times, particular individual circumstances of a specific situation which merit special attention. But I see no reason for legislating these special provisions in secrecy. There are three principal reasons I feel this way:

First, the problem of unintended beneficiaries. As the case of the Philadelphia nun illustrates, a provision designed for one situation can readily become available to other individuals who tailor their own stituations to take advantage of it. By revealing the genesis of these special provisions, it may be possible to prevent them from becoming provisions of general application, in appropriate cases.

Second, the problem of a shorter and simpler tax code. Were all the special provisions somehow treated differently than they now are—either as private tax bills, or listed in a separate appendix to the code—administration and understanding alike would be enhanced. It is difficult to estimate what part of the present code could be separated out under this theory, but it is without doubt appreciable.

Third, the problem of public confidence in public processes. It is not a secret that special provisions find their way into the various tax bills passed by the Congress, and signed by the President. But it usually is a secret which groups or individuals benefit from them. And this aura of secrecy generates an impression that the provisions are hidden because their sponsors have some-

thing to hide. I do not believe this to be the case. Anything given the force of Federal law should—indeed must—be able to stand the test of public scrutiny if we are to expect the public to have continuing faith in our government processes.

These, then, are the principal reasons for listing the special provisions. I had given some thought to offering an amendment to this bill requiring the Internal Revenue Service to furnish the appropriate congressional committees with a list of the special provisions, both in this bill as it is finally approved, and now in the code. This list would serve as a basis for cleaning up the present code, and helping to prevent the special provisions in this bill from becoming generally applicable provisions.

I have considered two other amendments to treat this problem.

An amendment to the Legislative Reorganization Act, authorizing private tax bills, similar to the private immigration and private relief bills. A number of private tax bills have in the past been approved by the Congress under the guise of private relief bills, the precedent, consequently, is firmly established.

An amendment to the present tax bill, which would utilize various technical devices to limit general application of the special provisions. An example of these technical devices would be effective date limitations.

But because this problem has not been examined by the Treasury Department, nor the appropriate committees in sufficient detail, I do not plan to offer the amendments at this time. Rather, I intend only to raise the general problem for discussion. I am sure that expert commentators will have many constructive suggestions, and I am also sure that the appropriate committees will give their attention to them.

It may well be, in the interim, that the Internal Revenue Service will have its hand strengthened in attempting to limit the spread of preferences, now that the legislative history of the bill lists at least a portion of them.

Our tax system is largely voluntary, insofar as the burden is on the individual to report his income, annually assess his tax, and then pay it. It is reassuring that the vast majority of Americans are scrupulous in adhering to the laws and regulations, and it is a signal of the strength of our democratic system.

But if we do not guarantee the law's equity and uniformity, then we will erode public confidence in it and in our system of government. That is why I feel the secrecy traditionally surrounding these special provisions serves no useful purpose.

Mr. President, I ask unanimous consent to have printed in the RECORD a document entitled "Technical Explanation of Special Provisions in the Tax Reform Act of 1969," and a document entitled "Illustrative Exhibit of Special Provisions Now in the Tax Code."

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

TECHNICAL EXPLANATION OF SPECIAL PROVISIONS IN THE TAX REFORM ACT OF 1969

I. Tax treatment of private foundations:

A. Stock Ownership Limitation (Sec. 101 (b) of the bill, pages 38–45 of the report, and sec. 443 of the code).

1. Benwood Foundation. Discussed in the second full paragraph on p. 41 of the report. Benwood owns a number of Coca-Cola Bottling Company franchisors.

2. Cafritz Foundation. Discussed in the first full paragraph on p. 43.

3. El Pomar Foundation and Olin Foundation. Discussed in the third full paragraph on p. 44. El Pomar owns the Broadmoor Hotel in Colorado Springs; Olin owns the Federal Cartridge Corporation.

4. The Herndon Foundation. Discussed in the fourth full paragraph on p. 44. Herndon owns a number of insurance companies.

5. The James Irvine Foundation. Discussed in the first full paragraph on p. 45. Irvine owns 53 percent of the Irvine Company, which in turn owns 88,000 acres of land in Orange County, California. This is nearly 20 percent of the county.

Effect: Generally speaking, if these foundations were forced to dispose of all but 20 percent of their stock in the unrelated businesses they own, as the general rule in the bill requires, then they would both lose control of the businesses and lose the income from them.

II. Other exempt organizations:

A. Extension of Unrelated Business Income Tax to all Exempt Organizations (Secs 121(a) (b) and (f) of the bill, pages 67–71 of the report, and secs 511 and 512 of the code.)

1. Loyola University. Discussed in paragraph 6 on p. 70. Loyola owns radio station WWL in New Orleans, a CBS-affiliate.

Effect: Generally speaking, the bill extends the income tax due from tax-exempt organizations on the income from their unrelated business operations to *all* tax-exempt organizations. Loyola, however, will be exempted.

III. Restricted property:

(Sec. 321 of the bill, pages 119–124 of the report, and secs. 83, 402(b), and 403(c) of the code).

1. Litton Industries. Discussed in the fourth full paragraph on p. 124 of the report.

Effect: Generally speaking, the operation of stock option plans is greatly restricted under the bill, eliminating a tax advantage presently available to corporate executives. Litton executives have until 1973 before the new rules take effect; the general rules apply as of June 30, 1969.

IV. Depreciation allowed regulated industries: (Sec. 441 of the bill, pp. 17–176 of the report, and sec. 167(1) of the code).

1. Oil pipeline companies. Discussed in the second full paragraph on p. 174.

2. Western Massachusetts Electric Company. Discussed in the third full paragraph on p. 175. Western Mass. seeks to change its method of tax accounting for depreciation, having filed for permission to do so with the state regulatory agency before the cut-off date in the bill.

Effect: Generally speaking, regulated Utilities are prohibited from changing their method of accounting for depreciation, because a recent trend in the industry will, if allowed to continue, generate a tax revenue loss of about $1.5 billion. Those companies and particular industries permitted to change their method, despite the general rule, will effectuate tax savings.

V. Real estate depreciation: (Sec. 521 of the bill, pp. 211–215 of the report, and secs. 167 and 1250 of the Code).

1. Transamerica Corporation. Discussed in the paragraph beginning at the bottom of p. 213. Transamerica had filed for what amounts to a building permit, the cut-off date of the bill, for construction of a new plant.

Effect: Generally speaking, the bill eliminates certain types of accelerated depreciation on new, non-residential construction, because continuing it would continue a widespread tax shelter abuse. This abuse is available only to those individuals or corporations with substantial incomes against which to offset the depreciation. Exceptions to this general rule continues this offset factor.

VI. Tax treatment of State and municipal Bonds:

A. Arbitrage Bonds (Secs 601 and 602 of the bill, pp 217–220 of the report and secs 103(a), 6056, and 6685 of the code).

1. University of Virginia. Discussed in the first full paragraph on p. 220. The University seeks to apply the income from arbitrage bonds in its control to the construction of new residential facilities.

Effect: Generally speaking, the bill imposes a new tax on arbitrage bonds (bonds issued for the purpose of acquiring funds with which to purchase other securities), because often the Federal government loses the opportunity to tax the income on its own taxable securities when various kinds of complicated procedures are adopted. Exceptions to this general rule continue the present practice.

VII. Repeal of the investment credit: (Sec 703 of the bill, pp 223 to 248 of the report, and Secs 46, 47 and 49 of the Code).

1. Mobil Oil Corporation. Discussed in the third full paragraph on p. 235. Mobil is constructing a new $180 million refinery in Joliet, Ill. The company had begun preliminary work leading to construction of the refinery, but had not actually signed a contract for construction before the cut-off date.

2. Uniroyal, Inc. Discussed in the third full paragraph on p. 239. Uniroyal is constructing a $73 million new plant in Ardmore, Oklahoma. While no construction contract had been signed in this case either, the company had filed a description of the new plant with the SEC and had entered into a lease for the plant with the City of Ardmore.

3. Lockheed Aircraft Corp. and McDonnell-Douglas Aircraft Corporation. Discussed in Paragraph XIII on Page 244. Both corporations; had undertaken to produce aircraft of new design, and had signed contracts to do so prior to the cut-off date in the bill. But they had not contracted to buy the machinery with which actually to produce parts of the new aircraft.

4. Oil pipeline companies and coal companies. Discussed in the 5 paragraphs beginning at the third full paragraph on P. 240.

5. Barges for ocean-going vessels. Discussed in XII paragraph on P. 243.

Effect: Generally speaking, the 7 percent investment credit against taxes due is no longer available for machinery and equipment purchased, or property constructed after April 18, 1969. Exceptions to this general rule are a direct tax benefit to those who qualify for the exceptions.

ILLUSTRATIVE EXHIBIT OF SPECIAL PROVISION IN THE TAX CODE

1. Sec. 1240. (Enacted in 1951.) This special provision, tailored to the situation of Louis B. Mayer, former head of MGM, saved him $2 million in taxes.

2. Sec. 512(b)(13). (1958). This special provision was tailored to the situation of Charles E. Merrill, former partner in Merrill Lynch Pierce Fenner & Smith, the stock brokerage partnership, who left an interest in the partnership to a charitable trust. The trust, under this provision, was exempted from taxes on its share of the partnership's income which would otherwise have been due.

3. Sec. 2055(b)(2). (1956). This special provision was tailored to the situation of Mr. and Mrs. Gerald Swope. Mr. Swope was former Pres. of General Electric. This provision saved her estate $4 million in taxes,

through specially-tailored exceptions to the general rules.

4. A provision in the 1962 tax bill contained a provision for the Twin Cities Rapid Transit Company of Minneapolis-St. Paul, Minn., which make available to them $5 million in tax losses otherwise unavailable.

5. The same bill contained a provision for Howard F. Knipp of Baltimore, Md., which overruled an opinion handed down by both the Tax Court and the Appeals Court.

(Note: Items numbered 4 & 5 just above were vetoed by the President when passed as separate bills; they were approved when made part of the 1962 general tax bill.)

6. Congress adopted in 1961 a provision granting special tax treatment to the sale of $3 billion worth of General Motors stock by owners of DuPont Company stock. The sale was ordered by the courts, as part of an anti-trust decree.

7. In the Revenue Act of 1951, a provision was adopted which gave Wesleyan University, Middletown, Conn., an exception to taxes on unrelated business income. Wesleyan had purchased a publication for school children which earned about $1 million a year, and the university was given a grace period from taxation to adjust the income appropriately.

Mr. WILLIAMS of Delaware. Mr. President, I wish to ask the Senator if he is going to introduce an amendment to correct these matters?

Mr. KENNEDY. No, I am not. I mentioned in my remarks what I thought would be two possible amendments, but I mentioned them very briefly. I would hope we would have some discussion or comment on it some time in the future, but I am not prepared at this time to offer such a solution.

Mr. WILLIAMS of Delaware. Why not? The reason I made my suggestion is that I opposed these same measures in committee and would welcome his support in correcting them. But there is nothing secret about it; I thought everybody knew what they were doing when it was announced. I had understood the Senator was going to introduce an amendment, and I was looking forward to having his support. I know two or three more special exemptions he missed, and I believe that working together we could accomplish something. If the Senator introduces an amendment to carry out his point, perhaps we can pass it.

Mr. KENNEDY. The objective I had, as I stated in my remarks—I am not sure the Senator was in the Chamber at that time—was a belief that in many of these instances there were very legitimate reasons for the inclusion of the special provision. I reach no kind of judgment, not having been on the Committee on Finance and not having heard the testimony that was before it.

There probably are legitimate reasons for many of these provisions being included and I reach no conclusion about them. My only purpose in making these remarks is that I would have hoped that perhaps, although it has not been done in the past, there would be a description of these matters in the report; that is, a public review of those kinds of decisions made available.

I find it extremely difficult to try to locate those provisions in the report. In some instances they are mentioned by name but it is not developed in full detail.

I feel concern that potentially perhaps some of these matters—perhaps they do not—bear the same kind of problem suggested by the 1924 nun amendment which would lead to a loophole, and in the atmosphere of what has been done by the committee in eliminating the loophole. So I would think there would be no real objection to the points made.

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

Mr. KENNEDY. I yield.

Mr. LONG. Can the Senator tell me what good it would do me to know the name of that Philadelphia nun? I understand she was an heir of——

Mr. KENNEDY. Drexel.

Mr. LONG. The Drexel family. That is one provision that was expanded into a loophole and continued to be a loophole until we, in the committee in this bill, sought to close it. What good would it do to know the name of the lady? What is the difference?

Mr. KENNEDY. I suppose if there had been a full description of that provision in 1924, if there had been elaboration of it in the course of the official discussion, and there had been a thorough testing of that concept—and the potentiality of such a provision was visualized at that time in 1924—I suppose both the Senate and the members of the committee would have been a good deal more reluctant in providing that special provision as an item of general application. As I understand it the special provision was a special provision to apply only to that particular case. But during the intervening years, the word, so to speak, got around and more and more people took advantage of it.

With the full examination the Finance Committee has undertaken, in the course of the hearings, and with the full discussion, dialog and examination which have been given by the members of the Committee on Finance to this particular matter, I feel that when this bill becomes law the public will feel that there are no "nun" provisions in it. I do not believe there are, and I am sure the chairman of the committee does not believe there are.

Mr. LONG. There are a lot of things one can do in revenue legislation which are unfair. But nowhere in the bill does there appear the name of the principal beneficiary of the various provisions. It would be useless to state that one provision affected the Lockheed Co. or that that one affected the McDonnell-Douglas Co., or that another is especially applicable to Massachusetts Electric Co., because they might also apply to many other companies.

Mr. KENNEDY. I would hope that would not be in the bill, but in the report there could have been this kind of discussion.

I understand the House bill and the Senate bill included a special provision for the Hershey Trust, which was mentioned in the House report but not the Senate bill. The distinguished minority leader came down here and had a dialog with a member of the Committee on Finance, and elaborated and discussed those provisions to make the legislative history "crystal clear," as he put it. They wrote it into the House report. As I understand it, that was the only special provision which was included. I might be wrong on that, but that was the only one.

Mr. LONG. May I say to the Senator that as a matter of interest and of news, and as a matter of reporting and curiosity, it is fine to know that a provision in the bill might affect this taxpayer or it might not affect that taxpayer over there. I personally, however, cling to the same old concept of justice as the lady who stands there blindfolded and holds the scales of justice. She does not know who has an interest on the left side or who has an interest on the right side. She just tries to do what is right on the matter that is involved. That is how we should do these things.

Personally, I will fight as long as I am here to see that the code of ethics which operates for judges does not apply to legislators, because a legislator is intended to be an advocate. He speaks out for what he believes to be good for the people he represents. He is also an advocate of what is good for the whole country, but he represents the people of the State who sent him here. The laws of our country are so drafted and so intended. He speaks for the people he represents who elected him to Congress and sent him here.

When one of us becomes a judge, where some things do not particularly affect those of our State, I would like to see us look upon that impartially. It would not make any difference whether it would involve someone named Drexel or someone named Smith. The question is what is right and what is wrong.

As chairman of the committee, all I want to know is, one, what are the merits, and two, how much is involved. It is very nice, sometimes, to do things that way, but it costs the Treasury so much money that the Government cannot afford it. Under those circumstances, one would feel that it would be better to treat those problems in some other way than considering the potential revenue effect. But where someone raises a problem and says, "I am treated unfairly under the bill"—and also anyone else who is similarly situated and is treated unfairly—why should he be singled out for notoriety if we think he is right? He should be able to communicate with us even by writing an anonymous note and saying that it is not fair or right.

When we deal with a taxpayer who thinks he has been treated unfairly and believes that his case merits some legislation to correct that problem, why should the Treasury tell us that the taxpayer who says his name is Adam Jones and someone else is named Bill Smith, have similar problems, when there are other people who would be similarly affected and who are entitled to the same consideration?

For instance, this Lockheed provision was not inserted in the bill by the committee at all. That is a provision that the House sent to us. I took it on the floor prior to the time we ever conducted hearings. The problem was that the House had looked at a certain tax problem involving the Lockheed Corp., a tax problem involving the investment credit, and it had legislated in such a fashion that

the hardship, involving the existence of a contract, would not be imposed upon Lockheed.

Then, after they did that, someone pointed out that the Douglas Co., now the McDonnell-Douglas Co., was similarly affected. Now technically the problem seemed different, but as a practical matter it was the same problem. It had to do with binding contracts to build aircraft, and the aircraft were entitled to come under the investment credit. They needed to acquire the machinery and other equipment to build the aircraft. The only difference between the two cases is that the contracts were slightly different.

So it was felt that if we were going to provide this treatment for Lockheed, we had to provide equally for both. Here was a new test being put on Lockheed, and they said it was unfair to do it to them because they had a binding contract. We could either strike out what we had done for Lockheed or do the same thing to McDonnell-Douglas. So far as I was concerned, we could go either way. We considered the matter, and after we considered it and discussed the various aspects of the arguments, the committee decided that both should be relieved of the hardship imposed on them.

There is a provision that relates to ocean-going barges, which is also a House provision. While the Senator is finding fault with people, he should include the Ways and Means Committee. No one yet tried to find out who had the contract. We could find it out easily enough. Someone had a firm contract for the ships that would carry the barges. The firm had a contract for the ships at the time the President made his statement announcing that the repeal of the investment credit would be effective as of April 18, but it had not signed the contract for the barges that go on the ships. A barge-carrying ship is useless without the barge. In view of the fact that they had an obligation to build the ship they would have to build the barges as well. So the barges would have to come within the contract on the ships. The House did that. If the Senator finds fault with it, blame the House committee as well as the Senate committee. Their procedure has been the same as our procedure.

We do not make a point of identifying the taxpayer in general legislation. Where anyone is so affected, he could claim the same benefits if he had the same problem. In the accounts we gave to the press, in the news conferences we held day by day, after our executive sessions, in some instances, before we even said what the section is, we identified the taxpayer who had been asking for relief.

That was the case with Loyola University and in other cases. Whenever someone asked who might be affected by this, or did we have knowledge of the taxpayer affected by that, staff identified whoever the taxpayer was. And now it would seem to be that if the Senator wants to protect the right to be informed, he could do so and I would have no objection, day after day, asking that any provision affecting a taxpayer should identify all taxpayers insofar as we know who they are.

But I have served here a long time, with the Senator's two brothers, and neither one of them ever suggested, as the Senator is suggesting here, that a revenue bill should reveal the name of every taxpayer that would be affected by the bill we have drafted. That would be a new procedure, if we did that.

Mr. KENNEDY. The only point I would make, in responding to the Senator from Louisiana, is that I think the Senator has, by his description of the ocean-going barges case and the various aircraft corporation cases, given an explanation which, perhaps in those cases, was given in the course of the committee's consideration, the taking of testimony, and was described in the journals of our country. But there were other provisions which were included in this bill which were not so described. I am sure they were put in there perhaps for very sound and legitimate reasons.

But the point raised here is that there is no place within the report itself which provides the kind of description that the distinguished chairman of the committee has given in describing the legitimate reasons for the inclusion of those special provisions.

It is my position that public confidence would be strengthened if it had such a description. It in no way reaches the question about the legitimacy——

Mr. LONG. Is the Senator aware of the fact that there is not 1 percent—in fact, not one-tenth of 1 percent—of the people in the District of Columbia who read the bill or who read the committee report? What they read is what appears in the newspapers.

The newspapers had the names of everybody who was asking for any particular provision as written in the bill. Talk about public confidence, as to who might or might not be affected by the bill. The question is, Does the public know? Well, the public knows. We told them, and it was printed in the newspapers.

If we are going to inform the public, will the public learn it from the volume we have here on our desks, or from a newspaper which probably has a circulation of half a million copies? It seems to me the public is better informed if it is printed in the newspapers from coast to coast.

Mr. KENNEDY. The point I was trying to make is that without the kind of notice the Senator refers to, I doubt if it ever would have reached the newspapers. When one hears that there have been special provisions and then goes to the report and cannot locate it, he feels perhaps there may be other reasons for such inclusion. The Senator knows there was not. I believe there was not. I really believe this is the reason for putting all the material on the public record.

Mr. LONG. Mr. President, if I may just make this comment, I will then be ready to yield the floor as far as my part of this colloquy is concerned. One of this Nation's newspaper reporters who covers the U.S. Senate for many newspapers in this country said to the Senator from Louisiana in connection with this matter—I will not identify that person for the reason that it would be unfair to quote him unless he authorized it—that there has never been a time in the Senate to his knowledge when everything in a tax bill had been explained to the press in such detail or so promptly, when every provision that related to a taxpayer had been so quickly relayed to that taxpayer who requested the knowledge with respect to the bill. This was the high point with regard to which the public had been informed as to everything in the bill, why it was there, and who might be affected by it.

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

Mr. LONG. I yield.

Mr. KENNEDY. I think the Senator should be congratulated for what he has done in this area, and for the representations he has made and the presentations he has made and the job he has done with the bill. I would hope the Senator would not feel that these observations are directed at the distinguished chairman of the committee. There is no such intention. If I were to be critical, it would be of the procedures which perhaps have been in existence for a long period of time. As the Senator has said, reasons have been given for the provisions to which I have referred this evening. What the newspaperman to which the Senator refers was provided with was expansive, and the Senator deserves great credit for it.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. WILLIAMS of Delaware. I speak as one who tried to strike out the special exemptions in the House bill to which the Senator has referred. I was unsuccessful. I opposed the inclusion of all the provisions the Senator from Massachusetts mentioned along with some he missed, which I will mention in a moment.

I have been on the Finance Committee a number of years, and in all fairness to the chairman and the other members of the committee, it should be pointed out that I do not know of a single amendment that was offered in the committee by any member that was not identified by name. Both the committee and the press knew for whose benefit it was intended. It was described by name and the exact case. For example, the chairman of the committee advised the full committee he wanted to bring up the amendment dealing with the Loyola University. There had been public testimony; but he knew I was opposed to it, and he carried it over for 1 or 2 days. I met Father Jolley. While he had a persuasive argument, I could not go along with him, as the Senator knows; but when we voted every committee member knew what we were voting on, and our decision was announced to the press by name of the university. The same was true of the other amendments.

Naturally we did not always name every individual affected by every amendment because we did not believe in publicity for publicity's sake.

I cite a case in point. The House included a provision incorporating a 7½-percent tax on investment in-

come of all foundations. I was very strongly in favor of that proposal. I still am. I thought it was no more than fair that these foundations should pay some tax. I was sorry that a majority of the Finance Committee decided to eliminate that feature.

Nevertheless, when the committee acted to delete that section of the House bill, we did not name the foundations that were thus exempted from tax liability, and I do not think we should have. Everybody knew—at least I thought everybody knew—the effect the committee action would have even thought we did not name the foundations that will escape from paying any income taxes as the result of this loophole.

The committee did announce that a rejection of the House amendment would cost the Treasury about $100 million a year in revenue. Under the bill as passed by the House, the Rockefeller Foundation would have paid $1,800,000 in income taxes. The Ford Foundation would have paid $7,300,000. The Duke Foundation's tax liability would have been $1.3 million. The Lilly Foundation would have paid $1.2 million in taxes. The tax liability was estimated at $874,000 for the Pew Foundation under the House bill. Under the language of the House bill the Kennedy Foundation would have paid in taxes of $630,000. The action of the Finance Committee exempted all these foundations of any tax liability; but should they have been named as the beneficiaries of special tax privileges when it was a broad, general provision of law?

Not a single one of these foundations was named, but the total amounted to $100 million. I do not think anything would be achieved by publicizing the names of these foundations as being a part of a special interest group even though some of us think they should pay taxes the same as all other American citizens.

I realize there are those who feel the foundations should not be taxed. I do not question their sincerity, but I feel they should be taxed. I wonder why the Senator from Massachusetts eliminated this special group from his list.

The committee by rejecting the House amendment in effect gave complete tax exemptions for the group I have named. Should we have named them in the report as the beneficiaries of a $100 million windfall? I do not think so.

By the same token, last Saturday we had before us the Stevens amendment, which the Senator from Massachusetts supported. It passed by a margin of 1 vote. The purpose of the Stevens amendment was to reinstate the 7-percent investment tax credit to all depressed areas. That sounded nice, but it so happens that all of the State of Alaska is a depressed area along with many other areas scattered throughout the country. Under that amendment Atlantic Richfield and Standard Oil of New Jersey will get investment tax credit on their $900 million pipeline in that State. That amendment was supported by the Senator from Massachusetts. Should the Senator have said that this was an amendment providing a $63 million tax credit for Atlantic Richfield and Standard Oil of New Jersey? The Senator mentioned Mobil and others. Why did he not include this item in his tabulation? Under the amendment supported by the Senator last Saturday, all the major oil companies operating in the Alaska area would get the 7-percent investment credit on their investments there. That same pipeline provision was rejected by the House. Our committee rejected this proposal as an unwarranted windfall. I do not question the sincerity of my friend from Massachusetts who supported that amendment, which passed by 1 vote. A change of 1 vote would have defeated it. I do not say everyone who supported it knew he was giving $60 million to Atlantic Richfield and Standard Oil of New Jersey, but that is what they did. Was that legislation for a privileged group?

Perhaps the public ought to know who got these benefits. I opposed that amendment last Saturday. It was a glaring loophole. I think it was unfortunate that the Senate adopted that amendment. But if Senators are going to name names where do we start and where do we stop?

I congratulate my friend from Massachusetts for bringing up this question. I am a great believer in the public's right to know, and I think this rule should apply in all categories. I hope the Senator will offer an amendment to correct all so-called abuses that have been outlined in his speech, and I will join him in trying to get correction. In addition, I will join him in supporting the provision of the House bill which will reinstate the tax on foundations. They should be taxed. I would not want to impose this tax by name, but I have no objection if he wants to name the various foundations.

Was the amendment adopted last Saturday an amendment for the relief of Standard Oil of New Jersey and Atlantic Richfield? They will get at least $63 million in tax credits on the pipeline, and they will get more for their machinery used in the exploratory wells.

Let us not just pin these down as special amendments, because every business interest in the State of Alaska likewise will now receive that same investment tax credit. A grocery story or a filling station buying some item that is eligible for tax credit will now get it. The amendment did not apply to just one company. It was in broad, general terms, and under its terms the whole State of Alaska is classified as a depressed area. Everyone in the country in such an area will now automatically become eligible for the 7-percent tax credit. The Senator from Massachusetts voted for that amendment. Is this not another $300 million loophole?

Mr. KENNEDY. Mr. President, I think the point has been made on this. I do not wish to interrupt the distinguished Senator from Delaware, but I intend to yield the floor forthwith; I would simply say that I think I have handled the matter in the main part of my remarks, which express my opinion about this question. They also distinguish between the kinds of examples that have been suggested by the Senator from Delaware, and those I mentioned here this afternoon.

Mr. President, I ask unanimous consent to have printed in the RECORD two law review articles which discuss the problem of special provisions in the tax laws. This matter was the subject of the dialog a few minutes ago between the distinguished chairman of the Committee on Finance, its ranking minority member and myself.

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

[From the Harvard Law Review, Vol. 68, March 1955]

PRESSURE GROUPS AND THE REVENUE CODE: A REQUIEM IN HONOR OF THE DEPARTING UNIFORMITY OF THE TAX LAWS

(By William L. Cary*)

I. INTRODUCTION

The genesis of this paper is the casual remark of a Washington lawyer who asked, "What is the point of litigating a tax case when we can have the statute amended for the same outlay of time and money?" Probably his statement was inaccurate, and certainly it was extreme, but it comes as no surprise to sophisticated counsel daily studying the tax services to identify new patchwork stitched upon the internal revenue quilt. Pressure groups appear to be active, and effective, in the constant alteration of our tax laws. Whether their efforts take the form of new sections, or euphemistically called "technical changes,"[1] there is today an accelerating tendency away from uniformity and toward preferential treatment. The Internal Revenue Code of 1954 does not alter this trend.

Some very admirable counsel have commented that my concern should not be with pressure groups in principle but with the effectiveness of the "wrong" groups as distinguished from the "right" ones. They would examine each new amendment and ask whether it is good or bad. Their approach is of course subjective, depending upon one's views as to what is socially and economically desirable tax policy. It is probably true that no one can be completely objective and that some bias will be inevitable. Yet the attempt here is considerably broader: it is an attack, or rather, a modest foray, upon the whole movement toward preferential and specialized amendments, irrespective of what group is preferred.

The root of the evil is not easily identified. Neither capital nor labor, neither the Democratic nor the Republican party, is alone at fault. It is unhappily true that the trend toward special treatment has not been arrested by the Eisenhower administration or its predecessors. In all probability the basic trouble lies in our political system as a whole and in Congress particularly. Perhaps, then, it is a futile pursuit to raise any doubt about current developments in tax legislation. Dr. T. S. Adams recognized years ago that "modern taxation or tax-making in its most characteristic aspect is a group contest in which powerful interests vigorously endeavor to rid themselves of present or proposed tax burdens."[2] But one need not repudiate the democratic process to deplore certain abuses which creep into it.[3]

If this article sought to settle the basic issues of taxation, such as the selection of the rate structure and the choice between more excise, individual income, or corporate taxes, it would indeed be taking sides in what Dr. Adams referred to as "class politics."[4] For our purpose let us accept the existing structure of tax laws and focus

Footnotes at end of article.

upon the preferential treatment and inequities within them. Thus the topic has been narrowed substantially. Though it may still be argued that this paper is unrealistic—an effort to take politics out of politics—I venture that this introduction of a quixotic approach to revenue legislation is no more bizarre than the enactment of certain amendments to the Code recently introduced and adopted by Congress.

We have reason to be concerned about the future of taxation and tax administration. One economist has argued that when tax revenue exceeds 25 per cent of national income, the danger point has been reached.[5] Upon this assumption we already have approached the limits of taxable capacity. Probably the most distinguished writers on economics disagree.[6] There is, however, another limit upon taxable capacity, which is basically psychological and has been too long taken for granted despite its importance. Our fiscal system cannot survive unless the majority of the citizenry retain confidence in the equity and uniformity of our tax laws and their administration, and will not countenance tax evasion. Stated in other words, the tendency toward preferential treatment breeds disrespect for the tax laws, and without respect there will be no effort made to abide by them.

The initial objective of this paper will be to demonstrate specifically the trend toward special legislation in the revenue laws. Principal reliance will be placed upon the Revenue Acts of 1951 [7] and 1954,[8] which afford an extraordinary range of examples illustrating the history of pressures upon tax legislation. As will become quite clear from their provisions, Congress has responded to pressures for the benefit of specific individuals, industries, and economic groups. Following the analysis of particular amendments, a comparison will be attempted of the forms of relief currently available under the Code for some of the major economic classes in our society: investors, owners of businesses, corporate executives, organized labor, farmers, and professional persons.

II. RESPONSE TO PRESSURES FROM INDIVIDUALS AND SPECIAL GROUPS

A. Retention of old relief provisions

Special relief provisions for individuals and private groups contained in the preceding law have been re-enacted and are firmly embedded in the 1954 Code. Probably the finest demonstration of legislative tenacity, and of human incapacity to weed out laws once on the books, is section 1240, popularly known as the "Mayer Provision" in honor of the alleged principal beneficiary under it.[9] Originally introduced in the Revenue Act of 1951,[10] the provision bears the deceptively general title of "Taxability to Employee of Termination Payments." As a general rule, except in the case of qualified pension and like plans,[11] any lump sum distribution upon retirement is taxable to the employee and bunched in one year as ordinary income.[12] Yet to resolve this predicament in the case of one movie executive, the bill provided for capital gains treatment where the taxpayer had been employed for more than 20 years, had held his rights to future profits for 12 years during his term of employment, and had the right to receive a percentage of profits for life or for a period of at least five years after the termination of his employment. How many persons could such a restricted provision cover? Perhaps an averaging system is needed for bunched income generally, or for retiring employees,[13] but is there any sound basis for the relief of one executive through capital gains treatment? It is especially noteworthy that counsel did not even trouble to present this amendment, and another involving personal holding companies, to the House Ways and Means Committee, but took all the matters which he sponsored directly to the Senate Finance Committee. Apparently pressure upon members of one house sufficed to ensure enactment of both measures.[14] In 1954 the question arose as to how this provision should be treated in the new Code. Presumably because of its narrow scope it was omitted in the House bill. However, in the hearings before the Senate committee, the proponent pointed out that "No explanation of the omission is contained in the Ways and Means Committee report, and it is believed that the omission was inadvertent." [15] He urged not only that the bill should incorporate the existing provision but also that the provision should be extended to cover the few cases where the taxpayer has rendered personal services under an agency contract involving receipt of profits after its termination. The argument was made that so long as relief was available to corporate employees under the original statute, there was no reason why it should not be amended to cover comparable agency situations. The plea was effective to achieve the reacceptance of the 1951 provision by the Senate,[16] though it did not succeeed in expanding its coverage.

In this case, as in the case of the personal holding company amendment,[17] there may be nothing alarming about the particular relief which the taxpayer received. However, the result was that a few persons were allowed special treatment, while others undoubtedly have suffered from comparable restraints.

B. New Relief Provisions

The 1954 Code has not only incorporated the special relief provisions contained in preceding acts, but has also added new ones. Perhaps the most amusing addition is section 6073(b), where—thanks to prevailing pressures along the coastal areas—the extra time given farmers to file a declaration is stretched by the parenthetical phrase "(including oyster farming)." [18]

A new case of congressional generosity in the 1954 Code seems tailored to the needs of certain commission merchants in the South. Whether by custom or rules of the trade, a few of them are required to do business as partnerships although for tax purposes their preference would be in favor of operating in the corporate form. Their problem was considered by the Treasury, and received serious attention in connection with the Administration's stated policy of favoring small business. In his budget message of 1954 the President said that small firms should be able to operate under whatever form of organization is desirable without being influenced by tax considerations, and then recommended "that cooperation with a small number of active stockholders be given the option to be taxed as partnerships and that certain partnerships be given the option to be taxed as corporations." [19]

Provisions implementing this recommendation did not appear in the 1954 House bill (H.R. 8300) but were incorporated in the later Senate version. Section 1351 of the latter provided that corporations could elect to have the tax status of partnerships under specified conditions, and section 1361 gave an option to partnerships where capital was a material income-producing factor to be taxed as corporations. The latter was described in the Senate Report as "complementary to the similar option granted certain corporations." [20]

The first and more important section, section 1351, was eliminated in conference, but—though few were affected—the momentum behind section 1361 was enough to effect its retention, thus putting the cart before the horse. In other words, two provisions linked together by the President and Senate were separated, and only the minor one—benefiting a handful—was ultimately enacted. At this point it may be asked why these partners should not be permitted to be taxed as if incorporated when they are not allowed to operate in the corporate form. But if this is the case, should they be singled out or should the same relief be available to all the professions as well? They too are required to practice as partners. The facts are that the statute is carefully drafted to exclude lawyers, doctors, and all types of partnerships in which capital is not a material income-producing factor.[21]

A major example of largess in 1954 was in favor of inventors and persons financing them in section 1235. Under the preceding law the controversy whether th. sale of a patent should receive capital gains treatment involved two questions: was the originator an amateur or a professional, and did he receive for his patent installment payments or royalties taxable as ordinary income? [22] To obviate existing uncertainty and "to provide an incentive to inventors to contribute to the welfare of the Nation," [23] these considerations were eliminated. The House bill restricted the relief to the "first and original" inventor [24] and to cases where the sales price was not dependent, for more than five years, upon the productivity, use, or disposition of the patent in the hands of the buyer.[25] The Senate, however, concluding that the House bill had not "accomplished its objective of stimulating inventions," [26] extended preferred treatment to anyone not a close relative or employee of the inventor who purchased the rights or an undivided interest in the invention before it was reduced to actual practice, and removed the five-year proviso. [27] It should be noted, however, that the wishes of the patent lobby have not been fully satisfied. In the 1953 hearings the president of the National Patent Council urged that patents receive percentage depletion on the ground that "The depletion allowance is based on the fact that the supply of oil or minerals in a given area will eventually be exhausted. However, not one penny is given to an inventor for depletion, although a patent can last only 17 years." [28]

The benefits conferred upon inventors and their financial angels should be contrasted with the treatment of artists, authors, and composers under the current tax law. While many groups within our society (including a single movie executive) have become beneficiaries of amendments converting income into capital gains, the Revenue Act of 1950 administered the *coup de grace* to literary, musical, or artistic compositions by expressly excluding them from the definition of capital assets subject to favorable treatment.[29] Why should the disposition of books and symphonies not enjoy capital gains treatment, while the sale of patents, livestock, and coal and timber royalties do? Is it because America tends to favor material success at the expense of developing the arts? Surely it cannot be that our critics abroad speak the truth. Most of us believe that this is not a conscious policy of discrimination against nonmaterial values. On the narrow issue of the 1950 amendment, the favorable ruling and the unfavorable publicity received with respect to the sale of the Eisenhower book may have been responsible for congressional action.[30] In general, however, the reason why professional men and artists are not receiving favorable treatment is probably a pragmatic one. They are individualists, too scattered to represent an effective political force, and without a lobby dedicated solely to the cause of obtaining special tax advantages. For example, while three representatives of two separate patent organizations appeared before the Senate committee on the 1954 act,[31] only one representative of the Mystery Writers of America, Inc., was present.[32] Upon the conclusion of her testimony, the chairman asked, "Why shouldn't we give these people some relief?" and received the reply that "We looked into

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this, and it is just a question of how far we want to go in extending capital-gains treatment." [33]

Although the foregoing illustrate, without exhausting, the special relief provisions enacted in 1954, brief reference should be made to the amendment of old estate tax section 811(g). The 1954 Code excludes life insurance proceeds from the gross estate, whether decedent paid some or all of the premiums, so long as he retained no "incidents of ownership." [34] Even before the new section was six months old, it was said that the administration might seek its modification: some Treasury officials have discovered that the life insurance industry has been strenuously selling the new provision, telling clients that only through insurance policies can they completely escape tax liability.[35]

C. Special provisions for charities

Lest it be thought that the only person seeking special treatment are individuals or groups having a profit motive, attention should be directed to provisions dealing with charitable donations and organizations. One of the earliest relief provisions, first enacted in 1924,[36] is the so-called "Philadelphia Nun" provision, which permitted unlimited deductions if contributions plus taxes during the ten preceding taxable years equalled more than 90 percent of taxable income.[37] Because the provision appeared "unduly strict," [38] Congress provided in the 1954 Code that the 90 percent test must be met in only eight of the ten years.[39] Even with this new relaxation the section still appears to be tailored to the problem of only a handful of ascetics.

In the Revenue Act of 1951 [40] a special statute was passed for the relief of Wesleyan University, which had purchased a publication for elementary school children, then earning a million dollars a year.[41] Under the 1950 act income of a charity over $1,000 derived from unrelated business became taxable; [42] the 1951 act provided a three-year period of grace to tax-exempt organizations to readjust outside businesses which they had purchased—but relief was limited strictly to the publishing field. The proponent of the measure, Senator McMahon, indicated that Wesleyan planned to integrate the publication into the university; but since it was circulated in primary schools only, Senator Kerr intimated that the real object must be to integrate the million dollars per year, as in the case of any other profitable investment.[43]

Under the 1954 Code an extra 10 per cent charitable deduction is provided to individuals if the contribution is made to churches, schools, or hospitals,[44] while the regular 20 per cent may be paid to the broad list of tax-exempt organizations.[45] Possibly the selection of these three classes of charities for special treatment may be justified on logical grounds. However, let us compare the selection with the provision denying tax exemption to institutions engaging in prohibted fiancial transactions: [46] there exceptions are made not only for churches, schools, and hospitals, but also for organizations engaged in medical education or research.[47] To increase the diversity, the junior senator from Kansas pointed out on the Senate floor how appropriate it is that "research in the field of agriculture be placed in the same administrative position with respect to the Revenue Code as medical research," and no one objected.[48] Thus by a grant of special treatment to a few organizations, any possibility of maintaining some uniform pattern among the charitable provisions of the Code has been shattered without a moment's reflection.

D. Forthcoming legislation

Full comprehension of the pressure for preferential treatment cannot be conveyed without consideration of forthcoming tax legislation, in all probability the Technical Changes Act of 1955. Even before the President had signed the 1954 act, another tax bill had been referred to the Senate Committee on Finance, and was reported favorably.[49] Congress adjourned before it could be passed. The amendments included by the Senate committee furnish examples of what may be proposed this year, and provide relief to one railroad (retroactive to 1941),[50] certain charitable organizations,[51] the estates of certain persons who died from 1948 through 1950 without releasing powers of appointment,[52] farmers selling livestock on account of drought,[53] and other random beneficiaries.

One of the amendments is an attempt to extend existing special legislation. During the war years there was a statute which freed the estates of veterans dying in action from income tax for the year of their death.[54] The self-evident purpose of the law was to lessen the burden upon families whose financial security might be impaired by the loss of the serviceman. When relief has become available, there is always a next step in the quest for special treatment: why tax the estate of a deceased serviceman who was the beneficiary of a trust under which income was accumulated for his benefit while he was in the service? In 1951 an amendment was adopted to have such trust income treated as if it had been distributed to the veteran in the year of his death and thereby render it wholly tax-exempt.[55] The proposal now has been made to accord the same treatment retroactively to trusts where refunds already were barred.[56] Thus relief, originally limited to the personal income of the veteran, is to be stretched to cover the undistributed income of any irrevocable trust under which he was the beneficiary.

E. The excess profits tax

Perhaps at this point inquiry may be raised why no mention has yet been made of the excess profits tax provisions. Among them are numerous glaring examples of special relief plainly tailored to a single company or at the most for the benefit of a few.[57] Typical illustrations are provisions which to the best of the writer's knowledge were applicable to one or two television manufacturers [58] or a single paper company.[59] One of the baldest instances of preferential legislation is a section of the 1951 revenue act providing for an alternative average base period net income with respect to any taxpayer which was engaged primarily in the newspaper publishing business and which after the middle of its base period and prior to July 1, 1950, consolidated with another newspaper published in the same locality.[60] We may well ask how many newspapers of a size subject to excess profits tax possibly underwent a consolidation during the very brief period specified. Obviously one concern was singled out.

The fact is that relief from the excess profits tax was almost inevitable. Both in theory and in practice, the problem of defining what are "excess" profits is insoluble.[61] It is in fact one of the main reasons why the tax itself has been so unpopular. With rates above 80 per cent, there would be instances of oppressive hardship if an excess profits tax law were enacted which afforded no possible escape. For this reason there was in World War II a so-called "general relief" statute entitled section 722, and the Excess Profits Tax Council was estabilshed to administer it.[62] Because of congressional dissatisfaction with the handling of section 722, relief provisions were specifically written into the new Excess Profits Tax Act of 1950.[63] In effect, Congress took unto itself the role occupied by the Excess Profits Tax Council, and granted statutory relief almost upon a case-by-cae basis.[64] Thus if the 1950 excess profits tax law had still be in effect in 1954, provisions allowing special relief might have been expected because no one can say with any certainty what profits are "normal" and what are "excess." It is still true, however, that the taxpayers havig the most effective lobbies received relief and the less fortunate did not.

F. Preliminary generalizations

Before analyzing further instances of congressional response to outside pressures, we should arrive at some preliminary generalizations from the preceding examples of relief to individual taxpayers and private groups. In each instance the character of the relief afforded is so technical as to make a simple explanation impossible. Being obscure or incomprehensible to the layman, it is not recognized as an outright favor to one individual or a highly selective group. Moreover, the relief is not palpably unwarranted. The case involving the retiring movie magnate demonstrates one of the basic weaknesses in the tax system, namely, the taxing of bunched income where no averaging system is available. But this inequity affects a multitude of taxpayers: artists, writers, athletes, and all persons retiring under similar circumstances. The movie executive here is probably not injured as much as the actors who work for the same company. By the same token, the inventor has received favored treatment without any congressional notice of others engaged in creative work. In this respect charitable organizations are equally vulnerable. Perhaps all these cases warranted relief, but is it not true that the tax laws work hardship in an infinite number of transactions? Can relief be scattered sporadically among a few individuals—whose only common characteristic is access to Congress—without making a mockery of the revenue laws? For every person who successfully argues that he is discriminated against there are thousands of others, inarticulate or ineffective, who are suffering the same fate in silence.

III. RESPONSE TO PRESSURES FROM INDUSTRY GROUPS

The Code has not only scattered largess among specific individuals and private groups who requested relief but has also shown some evidence of responding to pressures from several industry groups. In general, it appears that the extractive industries are the principal beneficiaries, and as a whole they are gaining an increasingly strong position in our tax structure.

Of this group, the oil industry has been the most frequently commented upon, principally by reason of the 27½ per cent deduction allowed against gross income for depletion.[65] No attempt will be made here to repeat the criticisms levelled at the favored status which the oil group enjoys.[66] Only a handful of senators venture to oppose it. In fact, one senator urged his colleague, Senator Douglas, to withdraw a controversial amendment by saying, "I am simply trying to keep [him] . . . from committing suicide." [67] The industry now regards percentage depletion as a sacrosanct, almost constitutional, prerogative, but still not enough. Other advantages have been sought. One already obtained is the privilege of writing off intangible drilling costs as expenses rather than capitalizing them and perhaps losing them as deductions.[68] In 1950 the oil industry also succeeded before the Senate committee in having inserted a new provision which would convert the assignment of so-called "in-oil payments" from an ordinary income transaction into capital gain. Although the conference committee rejected the change,[69] it should be recognized that a matter once raised is not finally disposed of, but will recur as an issue in hearings on subsequent revenue acts.

Several other extractive industries appear to have profited recently from effective lobbying: coal in 1951[70] and in the same year, sand, gravel and stone.[71] With respect to coal, the percentage depletion deduction was increased from 5 to 10 per cent on the ground,

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stated in the committee report of 1951, that the coal mining industry was peculiarly in need of more favorable tax treatment because of the inroads which alternative sources of energy, particularly oil and gas, had made on the potential markets for coal.[72] It is interesting to note the inconsistent theories upon which the percentage depletion deduction is granted. On the one hand, the intention is to stimulate development and wildcatting by awarding such a tax advantage to the oil industry.[73] On the other, it is to furnish relief to an industry which has suffered by reason of the increasing use of oil and gas. If percentage depletion has any function in our tax structure, should it be used to encourage development of one group and "bail out" another at the same time?

As a supplement to the additional percentage depletion upon coal, the 1951 act conferred preferential capital gains treatment upon royalties received by lessors.[74] The Senate committee report expressed solicitude for the industry and for the leases originally drawn on coal property. It pointed out that most of them are long-term and call for royalty payments in cents per ton; hence the lessor does not receive the automatic adjustment for price changes which occurs when a royalty is expressed as a percentage of the value of the coal extracted. Further, the report stated, many of the existing coal leases were old and royalty payments therefore small.[75] But it should be noted that capital gains treatment was given to coal royalties on both past and future leases. Congress apparently decided to confer a subsidy on the coal industry through the revenue laws. Of course, the argument can be made that the 1951 provision[76] merely extends to the coal industry what the timber industry had already received.[77] The next question, then, will be why the coal industry should benefit if the oil industry does not, and why capital gains treatment should not be available with respect to oil or many other royalties in areas which might deserve positive encouragement instead of subsidies for their declining status.

It should be noted further that according to the Senate committee the lessor of a coal property "as a practical matter" is not likely to benefit from the increased percentage depletion provided.[78] Thus since the latter allowance would be of material aid to only one group (the operators), another group (the lessors) must receive some compensating form of special treatment, such as capital gains. Once a policy of relief has been adopted, the consequence is that all participants, operators as well as lessors, must obtain a subsidy lest there be discrimination among them.

The iron ore industry in 1954 sought and almost obtained the capital gains treatment now available to owners of timber and coal. By an amendment to the Senate bill, tax relief was expanded to include the disposal of iron ore,[79] but the amendment was subsequently eliminated in conference.[80] However, continuing pressure upon the Senate is strong enough that the possibility of capital gains treatment cannot be deemed a dead issue.

Iron ore is already receiving substantial benefits under the tax laws. Percentage depletion of 15 per cent[81] has long been available to it, and the Revenue Act of 1951 permitted the expensing of all items incurred for the development of a mine or deposit.[82] Similar benefits are provided with respect to the write-off of mine exploration expenditures to the extent of $100,000 in the 1954 Code.[83] The reasons given in the Senate committee report for permitting both deductions are much the same. The report points out that where the depletion allowance is a percentage of the gross income of the property it is the same whether a large or small outlay is necessary to explore and develop the mine, with the result that mines having relatively large exploratory and development costs are subject to unfair discrimination.[84] Thus it would appear that the largess of percentage depletion in turn generates an inequity which must then be remedied.

Another group which has been satisfied, after years of clamor over "discrimination," may be referred to loosely as the "sand and gravel lobby." In 1951 almost every known building material received a 5 per cent allowance for depletion.[85] When Senator Douglas moved unsuccessfully to strike out clam and oyster shells on the ground that he did not regard them as necessary to the national defense, Senator Connally said in debate, "The Senator from Illinois is greatly concerned about clam shells. He does not have many in his district."[86] In 1954, allowances for granite, marble, slate, and other stone, when used as dimension or ornamental stone, were raised from 5 to 15 per cent.[87] In order to draw some line, however remote, Congress in the new Code expressly stated that percentage depletion does not apply to soil and water, or minerals from sea water, air, or similar inexhaustible sources.[88]

One of the most troublesome issues in 1954 arose over limestone. The general policy of of the statute appears to be that minerals used for road material, concrete, or similar purposes shall receive only a 5 per cent allowance. However, two senators on the Senate floor pointed out that this would give higher grade limestone unfair treatment when used or sold competitively with items such as rock asphalt, which under section 613(b)(3) receives 15 per cent even though used on roads.[89] The statute therefore was amended specially to provide 15 per cent depletion where a mineral is sold "on bid in direct competition with a bonafied bid to sell a mineral" bearing the higher rate.[90] Thus the gates have been opened to permit even road-building materials to receive further tax relief.

The next step can be best visualized through the testimony of the chairman of the Taxation Committee of the National Sand and Gravel Association before the Senate Finance Committee in 1954. He pointed out that the House bill at the time proposed a 15 per cent allowance for limestone for whatever purpose used, and expressed the hope that "the wisdom and justification of the proposal will be recognized by your committee."[91] He further testified that the same considerations which led to this decision by the House apply with equal force and logic to the sand and gravel producers, who are in competition with producers of crushed limestone all over the United States.

If the oil industry receives percentage depletion,[92] why should not other extractive industries? One theory advanced for percentage depletion, that the owner is losing his "capital" which should be valued at some figure approaching discovery value,[93] is applicable to all extractive industries. Probably the strongest argument made by the oil industry is that the predominant importance of oil in our economy, particularly in connection with any war effort, constitutes a justification for benefiting taxpayers risking their capital in discovering and developing new sources of supply.[94] The argument is particularly applicable to the independent oil wildcatters engaged in sinking holes which may be and often prove to be dry. Undeniably the risks they run are enormous. On the other hand, critics have noted that the chances taken by the major oil firms are within the range of normal business activity, and therefore query whether such largess is warranted.[95]

Even if we are willing to accept these arguments, it does not follow that percentage depletion at present rates is relief solely for the loss which the owner would otherwise suffer. When available to all substances save earth, air, and water, the depletion allowance quickly becomes an outright subsidy. The defense argument for percentage depletion in the oil industry may apply in the case of uranium, but it certainly does not exist in connection with sand, gravel, and like materials. Are there not in fact many other industries where further development should be encouraged? What accounts for legislation favoring sand and gravel firms is the continued political pressure of the firms affected and the argument that, as compared with the oil, coal, and timber industries, they are being discriminated against.

The foregoing illustrations of congressional responses to pressure from industry groups point toward the basis upon which tax relief has been granted. As already noted, the extractive industries have been the principal beneficiaries.[96] How have they succeeded so admirably, when in fact the coal industry's plea rests upon its depressed condition, while the oil industry bases its claim upon the importance of stimulating exploration and developing reserves? The formula in most cases appears to be the discrimination argument, the demand for tax equity. As one author has indicated, tax equity is achieved when the same load is placed on different persons who are in similar economic positions.[97] With respect to percentage depletion the coal industry sought to be placed in the same favorable position as the oil group, and the sand and gravel spokesmen felt they were being discriminated against if they did not receive treatment similar to that already available to the oil, coal, sulphur, and mining industries. And now that timber and coal royalties are afforded capital gains treatment, the lever of discrimination can again be used most effectively by the iron ore and oil men to claim similar advantages for royalties and "in oil payments."

IV. RESPONSE TO PRESSURES FROM ECONOMIC GROUPS

In moving from the privileged tax treatment accorded to specific individuals and industries, I next shall attempt a brief survey of some of the important economic groups in our society and how they are faring in the race for special benefits. To a large extent favored treatment is being conferred in a sporadic manner, without regard to what privileges are available to one class and withheld from another. Cases evoking sympathy and a desire to provide benefits are individually brought to the attention of Congress, and treated upon an ad hoc basis.

A. Investors

Those individuals who are well advised, or especially fitted by occupation, training, and background, are likely to be able to realize fully the opportunities for minimizing their tax burdens. Today the large investor probably constitutes the most important beneficiary of preferential treatment. A Harvard Business School study has reached the opinion that much of the income received by upper bracket individuals appears to avoid the full impact of the income tax.[98] One chart indicates that in 1946 there was little or no progression in effective tax rates beyond the $50,000 income level, and the maximum average tax rate was less than 50 per cent, despite the fact that theoretical effective rates ranged as high as 85.5 per cent.[99]

The difference in effective tax rates on individuals with large incomes can be attributed in major part to capital gains. There is undoubtedly a segment among the investor group whose whole attention is directed toward transactions which ultimately might yield return of a capital nature. Some of the available media are marketable common stocks, new ventures, real estate, oil properties, and closely-held concerns. Since the war there has been considerable activity in the purchase and sale of appreciated prop-

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erty, sometimes following the acquisition of the stock and liquidation of a family or close corporation. Another opportunity available to those in control of operating companies is to ensure the retention of corporate earnings and continuous expansion until the owner can realize upon the correspondingly enhanced value of stock or assets at capital gains rates.[100] Furthermore, the area of capital gains has been growing to include timber royalties and, most recently, coal royalties.[101] But the capital gains rate of 25 per cent seems to reduce the effective tax rates upon certain persons with large incomes without affecting taxability of others at all.[102] Thus there is created disuniformity in the rate structure even among wealthy investors. Pressure to expand the scope of capital gains, and to reduce the rate and required holding period, is a hardy perennial in congressional hearings, and cannot be discounted as a source of additional benefit to the high-bracket taxpayer in the future.

Another, quite different, way of reducing the effective rate of taxation is through the purchase of tax-exempt securities and of insurance.[103] Persons of wealth interested in capital preservation or security, as distinguished from capital appreciation, have bought substantial amounts of municipal and similar types of bonds. In this instance exemption is not due primarily to political pressure from the large investor. Its origin rests in the desire of states and municipalities to issue securities at a very low rate of interest.[104] Yet this tax exemption feature represents at the present time a substantial inequity in favor of persons in high income tax brackets. There has been also a tendency among the same group to invest in other low risk investments having tax advantages, such as life insurance policies. The freedom from income tax of the investment increment in life insurance is probably the major factor which renders life insurance attractive to the tax-conscious investor. The fact that the interest element is not subject to tax during the investor's life or at his death is but one of the special favors enjoyed by life insurance over other investment media.[105] For individuals in very high tax brackets the after-tax yields on common stock may be reduced below those available from tax-exempt securities and certain life insurance policies. And conservative investors may not regard the higher income (if any) as adequate compensation for the risk of capital loss inherent in stock ownership.

Another grant available to the large investor, namely, percentage depletion, has already been discussed at length.[106] Investment in oil royalties from proven fields offers one means of utilizing this tax advantage.[107] Oil drilling syndicates financed by persons of wealth have now become commonplace. They frequently invest a portion of their funds with the expectation of writing off intangible drilling costs immediately as an expense against high income and taking the additional 27½ per cent deduction in the event that drilling is successful.[108]

Perhaps the most obvious benefit to the investor group is the new dividend credit provision of the 1954 act.[109] Besides the agrument of alleged double taxation, probably the major reason given for the relief is that the tax burden on distributed corporate earnings "has contributed to the impairment of investment incentives." [110] The Senate committee report pointed out that capital which would otherwise be invested in stocks is driven into channels involving less risk, restricting the ability of companies to raise equity capital and forcing them to rely too heavily on borrowed money.[111] Thus in part the credit for dividends can be described as an inducement to counteract the existing tax exemption of insurance and municipal bonds.

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B. Corporate executives

Another group which has been substantially favored by the income tax laws is the executives of established corporations. For some time, since the enactment of old section 165(a), now section 401, this group has shared the advantages of pension and profit-sharing plans available to employees of such companies generally.[112] In order to qualify, such plans must be drawn in such a way as not to discriminate in favor of employees who are officers, shareholders, or supervisors.[113] At the same time the group covered can be severely limited under the 1954 Code, and there is no objection to providing ultimately for substantial remuneration to top employees after retirement. The basic difference between executives and other employees is that the former benefit in a larger dollar amount.[114] The new Code has taken an additional step favorable to employees having sizable estates by excluding from the estate tax any annuity or other payment receivable by a widow or other beneficiary under a qualified plan. [115]

Question might be raised as to the pressures which were responsible for the original enactment of pension and profit-sharing legislation. Here, as in the case of municipal bonds, the reason for enactment did not stem from the beneficiaries, the executives. It lies in a public policy favoring the assumption of responsibility by companies for their employees after retirement. In other words, the executive group is a by-product beneficiary of a broad policy favoring employees as a class. Yet thanks in part to federal tax policy the amounts received after the retiring age can be so bountiful that the time may come when the estate tax and income tax benefits enjoyed by management will be subjected to congressional review.

One benefit available to corporate executives does not arise from a special provision in the Code, but rather from a judicial definition of when income becomes taxable. Deferred compensation plans are common today, pursuant to which executives receive some of their increased compensation in the form of payments after retirement in return for acting as consultants.[116]

The trend in the direction of favoring corporate executives is perhaps demonstrated most clearly by the stock option provision enacted in 1950.[117] It has been broadened in several respects under the 1954 Code. Having the alleged objective of providing an incentive for executives to obtain a stake in the enterprise,[118] this provision nevertheless favors officers who are recipients of options, if they sell the shares they obtain more than two years after the grant of the option and more than six months after the transfer of the stock. Under these circumstances they are permitted to realize the profit upon their "stake" at capital gains rates.[119] The corporate law cases which have arisen since the enactment of the stock option provision indicate that a consideration in the form of services should be exacted for such options.[120] They also demonstrate that such options are basically for services rendered and therefore compensation, which in the case of other classes in our society is treated as ordinary income, not as capital gain.[121] An interesting facet of the stock option law is that it rarely provides relief for employees of small businesses because of the ten percent stock ownership limitation and the difficulty of ascertaining the value of the stock at the option date.[122] This result is directly in conflict with the incentive rationale underlying the stock option law, for the efforts of the management of a small concern seem more likely to be reflected in its success and the value of its shares than the efforts of employees of public corporations, where the price rise may represent stock market trends or extrinsic conditions such as the Korean War.

Though not related to special legislation, a further avenue for privileged treatment of corporate executives is through perquisites of office, which are becoming increasingly accepted among corporations. The allocation of automobiles to executives for personal use, an executive lunch room with meals at cost, club membership, entertainment and expense accounts are probably the least objectionable of many benefits which today are available to many company officers.[123] Most of them are actually income to the person, but are difficult for the Internal Revenue Service to detect. In fact, any strict application of the principle of taxing all of them would undoubtedly be regarded as an attack on a customary method of doing business in this country.

C. Owners of family businesses

The owners of family businesses today are probably in a position even more favorable taxwise than that of corporate executives. This is especially true when they are operating through a corporation rather than a partnership. In general theirs are the same opportunities available to the large investor. Under the corporate method of doing business the owners are in a favorable position to build up the company by accumulating profits which may be realized at capital gains rates through ultimate sale or liquidation.[124] The cost involved is payment of the corporate tax and an ultimate capital gains tax upon earnings which, if distributed as dividends, would have been taxable to the owners as income. The accumulation of profits, on the other hand, is not readily available to the owners of family businesses operating in partnership form, where earnings must be reported in the individual return. However, anyone operating a business as a partnership likewise has the ultimate advantage of disposing of his interest at capital gains rates under existing law.[125] Moreover, one of the most important tax advantages to the owners of family businesses today, whether in the corporate or partnership form, is the facility to charge off substantial amounts of personal expenditures as business expenses.[126] And it should be noted that the proprietors of closely-held concerns have an extraordinary opportunity to benefit through a profit-sharing and pension plan in their capacity as employees of their own companies.[127] In these respects they can have many of the advantages available to the executives of public corporations, and yet do not lose any possible opportunities to realize on their profits through ultimate sale or liquidation at favorable rates.

The owner of a family business, like the large investor, can spread the total earned income of the business over the family group to obtain tax advantages. This may be done in the corporate field by the distribution of shares to members of the family or to trusts for their benefit. Largely because such a benefit was available to persons operating in the corporate form, the same kind of relief was made available in the Revenue Act of 1951 to family partnerships.[128] Passed after years of litigation, the act provided that for federal income tax purposes a person must be recognized as a partner if he owns an interest in which capital is a material income-producing factor, whether the capital interest was acquired by purchase or gift. A gift of a share in a family partnership is henceforth to be respected regardless of the motives which actuated the transfer. Thus in the case of both corporate and partnership firms where capital plays some part, owners are able to spread among their family groups income derived in large measure from their own efforts.

D. Organized labor

The tax benefits derived by organized labor under the Internal Revenue Code are not yet on a par with those of the investor, corporate executives, or business owners. The capital gains provision, for example, is of less advantage to the average worker since

his income is relatively low and consists of earnings exclusively. Also, no opportunity is afforded for taking generous deductions, since under the withholding process the employer furnishes a statement showing total wages and the tax withheld. As a consequence, it is not surprising to find that organized labor has opposed as "loopholes" many of the provisions which Congress has enacted favoring other economic groups: percentage depletion, capital gains, and the like.[129]

At the same time labor can scarcely be described as unrealistic. Tax considerations have played a part in the current shifting of bargaining from wages alone to payments in the event of retirement, accident, or sickness. Perhaps ultimately labor will resort to the same arguments that have been relied upon by business owners and executives. Already the tax position of organized employees in established firms is much more favorable than that of workers as a whole. The former may be said to receive preferential tax treatment through pension and profit-sharing plans, under which contributions are exempted from tax in the hands of the trust and until actually received by the employee.[130] The 1954 Code further provides that total distributions paid to the employee within one year on account of his death or other separation from service shall be considered capital gain.[131] The Code has carried over, and in some cases broadened, previously enacted exclusions from income in the case of contributions by employers to health plans,[132] compensation for injury and sickness,[133] wages continued in such event,[134] and $5,000 of insurance paid by reason of the employee's death.[135]

A movement seems to be growing to bargain for broader fringe benefits, which might be treated as falling under a comprehensive definition of income. These benefits take innumerable forms, such as free meals, medical service, summer vacations, purchase discounts, and insurance. They have grown from $8.8 billion in 1952 to $9.6 billion in 1953.[136] One office equipment company has stated that its fringe benefits amount to about $550 per employee, or a total of over $7 million per year for its 14,000-person work force.[137] Yet there is some doubt whether it is administratively feasible to tax them.[138]

The political and economic bargaining power of strong unions raises the question whether, in the light of the growing demand for revenue from low-bracket taxpayers, it is not inevitable that the responsibilities of the employer will be expanded to include not only safer working but also better living conditions for the worker, and that pressure will be exerted to render such improved conditions, these "fringe benefits," tax free. In essence the argument is that the Government cannot tax a clerk working in well-lighted, air-conditioned surroundings more than a steel worker earning the same salary. Hence taxes should not be imposed upon the perquisites furnished some elements of labor by reason of their stronger negotiating position. But then the problem is whether the perquisites available to management are any different in principle, though more elaborate in kind, from those enjoyed by labor. It is conceivable that in terms of taxation the objectives of management and of organized labor in bargaining with corporate organization today actually coincide, to the joint detriment of the federal revenue.

Perhaps by reason of taxes our society is moving back to the status of a barter economy. As one author has said, "we are going through a development which is just the opposite of that which marked the end of the feudal period when wage payments were being commuted into money. Now many wages are being commuted into tax-free services. Perhaps the time will come when the individual unfortunate enough to receive all of his wages in money will have an impossible tax burden!" [139]

E. Farmers

It is perhaps never fully appreciated that one class of persons profiting extensively from the present tax laws is the farmer. In general the benefits he receives do not flow from special legislation. Part of the farmer's tax advantage seems to stem from three facts: farmers' lodging (like that of all home owners) is not treated as income; none of the fuel or food, if the farm is self-supporting, is included in income; and there is much careless reporting, perhaps even deliberate omission.[140] As a practical matter, is there any real way of enabling the Government to realize upon any one of these sources of income? Much of the benefit farmers receive can be attributed to the impossibility of administering a tax law which could include, or even discover, all items that might in theory be treated as income in the farmer's hands.

At the same time it cannot be said that farmers as a class are resting on their existing favorable tax status. The Revenue Act of 1951 provided that income derived from disposition of livestock should have the benefits of capital gains treatment.[141] At one point in the history of the bill turkeys, but not chickens, were included.[142] Both were finally eliminated. But now that favorable treatment has been accorded to quadrupeds, the question may arise whether similar advantages should not be accorded to poultry, and ultimately to crops.

F Professional people

One element in our society which may be regarded as orphaned under the Internal Revenue Code is the professional class. Although lawyers and doctors are said to enjoy their peak earnings during the 20-year span from the age of 40 to 60,[143] there is no opportunity to average that income throughout their working lives. It is true that lawyers, writers, and other professional men have the opportunity to spread an extraordinary amount received in any one year over a longer period if the services rendered cover more than three years, but the privilege is a limited one.[144] There is little tax relief and no pension plan available to professional people, though bills are now pending which may afford them the opportunity to deduct a portion of their income provided it is irrevocably set aside until their retirement.[145]

The status of actors, athletes, and artists is even worse. The span of their earning power frequently is a period of less than ten years. They are probably the worst victims of the principle that income must be computed upon an annual basis and taxed in the year of receipt. Although authors, artists, and musicians share the privilege of spreading the income received from work involving prolonged effort, they too may fairly claim to be victims of discrimination. Why should not the disposition of books and symphonies enjoy the capital gains treatment that the sale of patents, livestock, and interests in coal and timber now receives? [146]

V. GENERALIZATIONS AND CONCLUSIONS

Perhaps the general conclusion can now be ventured that the tax laws represent a patchwork of special legislation awarded on a random basis. It may be too late for thoroughgoing reform, but there may yet be time for occasional improvements. At this point, therefore, let us attempt to restate some of the dangers arising out of these deepening inequities in the Code. The United States has operated under a system of self-assessment of taxes, which of necessity assumes strict adherence by the great majority of people. As indicated at the outset, if the average taxpayer finds our tax laws more and more checkered with special legislation, the danger is that disrespect will spread and make enforcement impossible. Whatever may be the economic limit upon taxes, there is a practical and psychological limit which is probably short of it.

Part of the problem today is the general acceptance of a philosophy of taxation which attempts to justify a system of disuniformity. In the words of George O. May, the revenue process might be looked upon as a football game: "If you try to stop all the plays in the line, you won't have a game. You have to let someone get through the line and score a touchdown occasionally or you won't have a game." [147] This homely argument of a distinguished accountant in favor of capital gains is another way of saying that with rates as high as they are, holes in the Code must be available so that someone can make money. But should these holes be drilled for the benefit of those who can exert the most pressure? And if many such escapes are provided, doesn't tax collection then become a process of "dipping deep with a sieve," to use a phrase of Henry Simons? [148]

It may be said in rebuttal that virtually every provision in the Code is preferential to some more than others—which no doubt is true. Yet within broad classifications there can still be some restraint upon special provisions and some effort to cling to uniformity. Otherwise the law, already hopelessly complicated, will soon approach the ridiculous.[149] It is also true that there are other objectives in the tax law than fairness. In some instances, as in the case of the imputed income of home and farm owners, it may not be administratively feasible to achieve absolute equity. Furthermore, if percentage depletion or capital gains were necessary for the purpose of maintaining incentive or in order to prevent the total disappearance of capital formation, there might be logical justification for some overall (as distinguished from ad hoc) modification of the tax structure. Nevertheless, each time an amendment is sought, Congress should go back to fundamentals: What, for example, is the function of capital gains? Is it to relieve against taxing bunched income in one year, or is it to provide a needed incentive, or both?

Without such restraint, it is difficult to see where the accelerating pattern of preferential treatment can stop. The likelihood of continuing special legislation is demonstrated by the number of pressure groups which appear in every hearing on revenue measures before Congress. According to one writer, at the 1947 hearings approximately 150 organized groups were represented, all but twelve of which clearly represented business, labor, agriculture, or professional interests.[150] The complexion of the hearings held in 1951 by the Ways and Means Committee is similar to that of those held in 1942. The four volumes of testimony preceding the latest general revision, from June to August, 1953, demonstrate the current zeal of hundreds of interested groups and their representatives to be heard.

Many of the special provisions owe their existence to the discrimination argument. Perhaps the principal point made before Congress is that, since one group in our society has received a benefit the complaintant deserves like treatment. The more preferential the legislation written into the Code, the greater the opportunity for others to claim they are being discriminated against. The difficulty lies in finding, first, some logical basis for drawing a line, and second, some political groups supporting the policy of drawing it. There are very few organizations before Congress opposing further extension of capital gains treatment. Perhaps we are gradually approaching the taxpayer's millenium, when all citizens have available the benefits of converting ordinary income into capital gains.[151] As one writer has indicated, the preferred political way of reducing inequities is to extend an existing privilege to new groups, instead of withdrawing it from the present holders.[152]

Footnotes at end of article.

A final danger, already self-evident, is the increasing complexity of the tax laws. Only counsel spending the majority of his time in minute examination of the tax laws is competent to assure his client that he has taken full advantage of the existing benefits under it and avoided the pitfalls. "Every word added to the Code for the benefit of some particular taxpayer my well prove a trap and a very costly one for some other unsuspecting taxpayers." [153] It is ironic to recall the statement which appeared in the minority report on the Revenue Act of 1943: "We should develop as soon as possible a long-range, integrated, well-balanced, equitable, and simplified scheme of taxation, and we of the Republican minority propose to do all in our power to bring about such a plan." [154]

The recitation of dangers arising out of preferential legislation poses the final question: What correctives are available in a political society? Frequently one hears the suggestion that the pressures exerted and special favors sought are all due to current tax rates, and there would not have to be relief provisions if the rate structure were not so high. As a rough generalization this is partially true, though there would still be persons seeking percentage depletion and other deductions, and even lower capital gains rates. At any rate it is undeniable that the intensity of the efforts to obtain special treatment would slacken if rates were lower. And if we could be sure that some reduction would satisfy existing pressure groups, it is certainly worth serious consideration on the part of Congress. But so long as international tension exists and the budget remains unbalanced, one obviously cannot expect revenue receipts to be reduced substantially. Politically, as well as economically, high taxes and some progression in rate appear to be a part of the facts of life.[155]

It may be asked whether the developing pattern of preferential legislation can be arrested by the change of administration. Illustrations from the 1954 Code demonstrate the contrary. Furthermore, such a transformation would be too much to expect from any President's office, whether Republican or Democratic. As a previous writer has indicated, the executive plays an important but subordinate, role in the revenue field. [156] Developments of tax policy originate in proposals for change emanating from outside and backed by pressures which the lawmakers cannot ignore. In theory, legislation originates in the House, but in reality the Senate is engaged in developing, modifying, and choosing among proposals brought before it. Probably the baldest examples of congressional politics in action involved the passage of tax legislation where the Ways and Means Committee was bypassed entirely. In these cases the proponent's counsel went directly to the Senate Finance Committee, before which they were in a better position to secure a favorable hearing and an amendment to the bill. [157]

Since they must seek re-election, it may be too much to expect representatives to ignore the pressures exerted upon them. But lest our system of taxation break down, a presumption should exist in the mind of every Congressman against enacting tax legislation for the benefit of one individual or company or even of special groups. In each case the question should be raised whether the proposed bill will generate as much inequity as it is supposed to remedy. The decision before Congress on revenue bills differs radically from that on subsidies in general. In many instances the parties involved have first attempted to secure relief through the Internal Revenue Service or the courts, and failed. Under any circumstances, Congress should try to resolve tax issues in a judicious manner, determining whether relief is justified in view of the hardships inevitably imposed by a uniform revenue statute. For every one who obtains relief on the ground that he has been the victim of discrimination, there are thousands of others who are suffering the same fate in silence.

There are inequities in the tax law which warrant further study. The taxing of bunched income is among the foremost. It is one of the strong reasons for adopting a system of averaging or even conferring capital gains treatment as a rough way of levelling off a lump sum receipt representing years of effort or capital accretion.[158] The essential question is why remedial legislation should be extended to one or two selected persons and not, for example to athletes and artists, who suffer most from a brief period of spectacular earnings. In plain words, a systematic rather than hit-or-miss approach to relief must be the basis for future tax policy.[159]

In an attempt to apply the basic presumption against preferential treatment, several possible ways may be suggested to focus congressional attention upon proposed legislation. None of them, of course, is a remedy in itself, but they may serve to alleviate the problem. As a general rule, regardless of which party is in power, the views of the Treasury should receive more consideration from Congress on questions of uniformity and fairness in tax bills. Much of the special legislation which appears in the revenue acts represents congressional action taken against the advice of the Treasury. By and large it is in a stronger position than is Congress to represent the public interest because each senator and representative is subject to pressure from constituents and special groups.

The Treasury, however, can scarcely be vested with further authority if it maintains an uncompromising attitude against relief provisions. In general, from the Revenue Act of 1942 until 1954, it has appeared reluctant to initiate legislation even in cases of egregious hardship. Though its function is to protect the revenue, such a policy, whether or not theoretically sound, nevertheless seems politically unrealistic. If the Treasury had undertaken to sift out and submit certain justifiable grievances which came to its attention, as it did in 1942, there might have been a stronger basis for resistance on the part of Congress to pressures overwhelming it. Still, it seems improbable that the relief of a few would have sated the ardor of the many.

More information should be available to Congress itself, in the hope that it might act more responsibly. To reach individual congressmen more effectively there might be separate technical staffs for the House Ways and Means and the Senate Finance Committees, as well as the Joint Committee staff. For some years the latter has been directed by its able chief of staff, who, being the agent of both the Senate and the House, cannot always take a position strongly opposing provisions personally sponsored by leading members of either. In view of the fact that senators and representatives have differing objections to legislation before them, it is possible that each committee's staff might screen bills proposed in the other house and keep members advised of any evidences of special favor. Thus a system might ultimately become established for checkmating undesirable measures introduced by legislators overwhelmed by pressure from a constituent or an organized group in their districts.

A further suggestion stems from the fact that in congressional hearings there is practically no one, except perhaps the Treasury, available to represent the public. Perhaps the reason is that all of the pressure group proposals are of such character that no one of them would have a large adverse effect on the tax bill of any individual. Hence counter-pressure groups seldom develop. One exception is the National Tax Equality Association, which opposes cooperatives and the tax advantages they are said to enjoy. A second reason why the public is not more frequently represented is the difficulty of forming pressure groups around general interests. The concentration of business organizations on appeals brought to Congress and the emphasis placed on specific and often very technical provisions make it difficult even for the members of the tax committees to secure a balanced view of what is in the general interest, what the public wants or, indeed, what the public would want if it were informed as to the facts.[160] In order to obtain such a balanced view, therefore, it is suggested that several leading tax experts throughout the country be invited and retained to make a presentation before the Ways and Means or Finance Committee. Because they may be restrained by loyalty to private clients, these lawyers could indicate the provisions in the bill on which they could not render an unbiased opinion. At the same time some of the craftsmen of the tax bar might, as a public service, be willing to call Congress' attention to particular provisions in which special legislation is creeping into a pending tax bill. Many of them have served willingly as advisers upon the American Law Institute project to revise the tax laws.

What is the responsibility of the bar in connection with pressure legislation? While the general trend in tax administration has been toward decentralization, many lawyers have suddenly become aware of the fact that important tax issues are not necessarily decided in the field or in the courts, but may finally be resolved in Washington by Congress. To most lawyers outside the District of Columbia this seems to be a regrettable development. There has been criticism of the tax section of the American Bar Association on the ground that it is being operated primarily as a pressure group seeking to further the interests of individual clients. This is an extreme view, to which I do not subscribe. However, it can be said that the bar as a whole has taken no position with respect to halting the trend away from uniformity in the tax laws. In their capacity as individual lawyers it may well be that tax experts should serve their clients' interests before Congress as vigorously as they do before the courts. But through our professional organizations, and as citizens, we have duties of a broader scope. Furthermore, as one writer has said, over a lifetime each practitioner has a greater interest in a fair and symmetrical body of tax laws than any group has in special legislation in any single year.[161] Why, for example, does not any bar association formally deplore the "Mayer Provision"? This may not be a question of ethics, but at least it offers an unprecedented opportunity for service. And it is not too much for the public to expect of us. Today we are drawing many of the most brilliant graduates from law schools into the lucrative tax field and are developing the greatest masters of needlepoint in the history of the law. Unfortunately, however, we have become so engrossed in detail that we are unaware of the distorted pattern upon which we are jointly working. Technical skill, in other words, is being developed at the expense of breadth of understanding.

The late Justice Jackson pointed out that the United States has a system of taxation by confession, and "That a people so numerous, scattered and individualistic annually assesses itself with a tax liability, often in highly burdensome amounts, is a reassuring sign of the stability and vitality of our system of self-government." [162] Let us safeguard the uniformity of our taxes lest this system become undermined and collapse.[163]

FOOTNOTES

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[1] *See, e.g.*, Act of Oct. 25, 1949, 63 STAT. 891, and Technical Changes Act of 1953, 67 STAT. 615.

[2] Adams, *Ideals and Idealism in Taxation*, 18 AM. ECON. REV. 1 (1928).

[3] Inquiry may arise whether this paper is an ambitious crusade against subsidies of all kinds authorized by Congress, such as parity for the farmers, bonuses for veterans, and tariffs upon imported goods. The answer is clearly negative. True enough, there are pressure groups behind them, but at least the subsidies themselves are generally open and aboveboard. In contrast, preferential tax treatment is often hard to detect and becomes apparent only after careful scrutiny. Secondly, and more important, the main thrust of the tax laws must be to raise revenue, and not to satisfy political pressures by indirect grants-in-aid fostering disuniformity and inequity. For analyses of pressure groups primarily outside the tax field, see Wirtz, *Government by Private Groups*, 13 LA. L. REV. 440 (1953); SCHRIFTGIESSER, THE LOBBYISTS; THE ART AND BUSINESS OF INFLUENCING LAWMAKERS (1951); CRAWFORD, THE PRESSURE BOYS (1939).

[4] See note 2 *supra*.

[5] Clark, *The Danger Point in Taxes*, Harper's, Dec. 1950, p. 67.

[6] See, *e.g.*, Pechman & Mayer, *Mr. Colin Clark on the Limits of Taxation*, 34 REV. ECON. & STATIS. 232 (1952).

[7] 65 STAT. 452.

[8] 68A Stat. 3.

[9] Int. Rev. Code of 1939, § 117(p), added by 65 STAT. 504 (1951). See Miller, *Capital Gains Taxation of the Fruits of Personal Effort: Before and Under the 1954 Code*, 64 YALE L.J. 1, 13 (1954). Sections of the 1954 Code are hereinafter referred to simply by section number; sections of the 1939 Code, 53 STAT. 1, as they read immediately before repeal, are referred to by "old" section number.

[10] § 329, 65 STAT. 504 (1951).

[11] § 402(a)(2).

[12] E. T. Sproull, 16 T.C. 244 (1951), *aff'd per curiam*, 194 F. 2d 541 (6th Cir. 1952); *cf.* Elliott C. Morse, 17 T.C. 1244 (1952), *aff'd*, 202 F. 2d 69 (ad Cir. 1953). *But cf.* Commissioner v. Oates, 207 F. 2d 711 (7th Cir. 1953), 67 HARV. L. REV. 1268 (1954); see Eisenstein, *A Case of Deferred Compensation*, 4 Tax L. REV. 391 (1949).

[13] For suggestions with respect to averaging, see Blough, *Averaging Income for Tax Purposes*, 20 ACC. REV. 85 (1945); GROVES, POSTWAR TAXATION AND ECONOMIC PROGRESS 223–36 (1946); SIMONS, PERSONAL INCOME TAXATION 40 (1950); VICKREY, AGENDA FOR PROGRESS TAXATION 164—97 (1947); Bravman, *Equalization of Tax on all Individuals With the Same Aggregate Income Over Same Number of Years*, 50 COLUM. L. REV. 1 (1950); *Hearings Before the House Committee on Ways and Means on Forty Topics Pertaining to the General Revision of the Internal Revenue Code*, 83d Cong., 1st Sess., pt. 1, at 243–72 (1953).

[14] See *Hearings Before the Senate Committee on Finance on H.R. 4473*, 82d Cong., 2d Sess., pt. 3, at 1478 (1951).

There is no imputation or implication of illegal or unethical activities on the part of the sponsors of this provision, or their counsel. It is the system which is subject to scrutiny, not those persons who operate with skill and effectiveness under it and can put their case before pivotal persons in Congress.

[15] *Hearings Before the Senate Committee on Finance on H.R. 8300*, 83d Cong., 2d Sess., pt. 4, at 2003 (1954).

[16] S. Rep. No. 1622, 83d Cong., 2d Sess. 115, 444 (1954) (hereinafter cited as S. REP. No. 1622). "Your committee agrees with the objective of removing this provision prospectively but took that action in such a way as not to affect individuals who prior to 1954 entered into employment contracts relying on the application of this provision." *Id.* at 115.

[17] Under § 349 of the Revenue Act of 1951, 65 STAT. 519, relief was granted in 1939 to a Canadian personal holding company which was subject to tax because it had been unable to distribute its net income without violating the Trading With the Enemy Act, 40 STAT. 411 (1917), as amended, 12 U.S.C. § 95a (1952). See JOINT COMM. ON INTERNAL REVENUE TAXATION, SUMMARY OF PROVISIONS OF THE REVENUE ACT OF 1951, at 44 (1951) (hereinafter cited as SUMMARY 1951 ACT). Apparently upon the theory that profits would have been distributed in the absence of such restraints, the statute provides for a deduction in computing the concern's undistributed net income to the extent of sums which it was prevented from disbursing. In this connection attention should be drawn to the fact that no corresponding section was enacted providing that the income deducted "as if" distributed should be taxed as constructively received by the stockholders in 1951 or at any other time.

[18] "Declarations of estimated tax required by section 6015 from individuals whose estimated gross income from farming (including oyster farming) for the taxable year . . . may . . . be filed at any time on or before January 15 of the succeeding taxable year." § 6073(b).

[19] N.Y. Times, Jan. 22, 1954, p. 14, col. 5.

[20] S. Rep. No. 1622, at 119.

[21] Also significant is section 404(c), relating to the United Mine Workers Welfare and Retirement Fund. To meet the exigency that payments to the fund made on a tonnage-mined basis were not deductible, since they were not pursuant to a qualified plan, the new provision states that contributions will be deductible as trade or business expenses if made under an employee benefit plan established as a result of an agreement during a period of government operation, under seizure powers, of a major part of the industry's facilities. S. Rep. No. 1622, at 56, 292.

[22] See generally S. Rep. No. 1622, at 113–14, 438–41.

[23] *Id.* at 439.

[24] *Report of the House Committee on Ways and Means To Accompany H.R. 8300*, H.R. Rep. No. 1337, 83d Cong, 2d Sess, pt. 2, at A280 (1954).

[25] *Id.* at 82, A279–82.

[26] S. Rep. No. 1622, at 114.

[27] *Ibid.*

[28] *Hearings Before the House Committee on Ways and Means on H.R. 8300*, 83d Cong., 1st Sess., pt. 2, at 1191 (1954).

[29] § 210(a)(1), 64 STAT. 933 (1950).

[30] General Eisenhower sold all the rights in his war memoirs for a lump sum of $635,000 and received a Treasury ruling that it was capital gain. See SURREY & WARREN, CASES AND MATERIALS ON FEDERAL INCOME TAXATION 579 (1953 ed.).

[31] See *Hearings Before the Senate Committee on Finance on H.R. 8300*, 83d Cong., 2d Sess., pt. 3, at 1662, 1666, 1684 (1954).

[32] *Id* at 1610.

[33] *Id* at 1612.

[34] § 2042. See S. REP. 1622, at 124, 472.

[35] Wall St. Journal, Nov. 17, 1954, p. 1, col. 5.

[36] Revenue Act of 1924, § 214(10)(E), 43 STAT. 271.

[37] Old § 120.

[38] S. REP. No. 1622, at 30.

[39] § 170(b)(1)(C).

[40] § 347, 65 STAT. 518 (1951).

[41] 97 CONG. REC. 11700, 12359 (1951).

[42] Revenue Act of 1950, § 421, 64 STAT. 948.

[43] 97 CONG. REC. 11701 (1951).

[44] §§ 170(b)(1)(A), (B).

[45] §§ 170(b)(1)(B), (C).

[46] § 503.

[47] § 503(b).

[48] 100 CONG. REC. 9044 (daily ed. July 1, 1954).

[49] H.R. 6440, 83d Cong., 2d Sess. passed the House on July 29, 1954, and was reported with substantial amendments by Senator Milliken, chairman of the Senate Finance Committee, on August 2, 1954. S. REP. No. 2038, 83d Cong., 2d Sess. (1954).

[50] H.R. 6440, 83d Cong., 2d Sess. § 3(1954).

[51] *Id.* § 4.

[52] *Id.* § 5.

[53] *Id.* §7.

[54] 57 STAT. 149 (1943). Individuals dying while in active service during World War II were forgiven their income tax with respect to the year of death, and also unpaid income taxes for prior years. Section 334 of the Revenue Act of 1951 provided similar treatment for members of the armed forces dying in combat zones during the Korean hostilities, 65 STAT. 507.

[55] Revenue Act of 1951, § 345, 65 STAT. 517.

[56] H.R. 6440, 83d Cong., 2d Sess. § I (1954).

[57] See generally Oakes, *The Revenue Act of 1951: Excess Profits Tax Amendments*, 5 NAT'L TAX J. 53 (1952).

[58] See Revenue Act of 1951, § 516, 65 STAT. 553; SUMMARY 1951 ACT 54.

[59] See Revenue Act of 1951, § 511, 65 STAT. 551; SUMMARY 1951 ACT 52.

[60] § 518, 65 STAT. 554 (1951); see SUMMARY 1951 ACT 55.

[61] See Rudick, *The Controversy Over EPT*, 6 TAX L. REV. 121, 127–28 (1951).

[62] 54 STAT. 986 (1940), as amended, 56 STAT. 914 (1942); Mim. 6035, 1946–8 CUM. BULL. 97.

[63] §§ 443–46, 64 STAT. 1163–72 (1951).

[64] Address by Gordon Grand, Jr., Minority Advisor, House Committee on Ways and Means, 82d Congress, before the 44th Annual Conference on Taxation sponsored by the National Tax Association, Dallas, Texas, Nov. 27, 1951.

[65] § 613(b)(1).

[66] *E.g.*, Baker & Griswold, *Percentage Depletion—A Correspondence*, 64 HARV. L. REV. 361 (1951); Blum, *How to Get All (But All) the Tax Advantages of Dabbling in Oil*, 31 TAXES 343 (1953).

[67] 100 CONG. REC. 8864 (daily ed. June 30, 1954) (Sen. Neely).

[68] U.S. Treas. Reg. 118, § 39.23(m)—16(a)(1) (1953).

[69] H.R. REP. No. 3124, 81st Con., 2d Sess. 28 (1950).

[70] Revenue Act of 1951, § 319(a), 65 Stat. 491.

[71] *Ibid.*

[72] S. REP. No. 781, 82d Cong., 1st Sess. 37 (1951).

[73] See Baker & Griswold, *Percentage Depletion—A Correspondence*, 64, TAX L. REV. 361, 362, (1951); see also Blum, *supra* note 66.

[74] Old § 117(k)(2), added by Revenue Act of 1951, § 325, 65 STAT. 501, retained in the new Code as § 631.

[75] S. REP. No. 781, 82d Cong., 1st Sess. 42 (1951).

[76] Revenue Act of 1951, §§ 325(b), (c), 65 STAT. 501. The provision is retained in new § 631(c).

[77] § 631(b); old § 117(k)(2).

[78] S. REP. No. 781, 82d Cong., 1st Sess. 42 (1951).

[79] S. REP. No. 1622, at 338–39.

[80] H.R. REP. No. 2543, 83d Cong., 2d Sess. 33 (1954).

[81] § 613(b)(3).

[82] § 309(a), 65 Stat. 486 (1951).

[83] § 615(a). It was only $75,000 under the Revenue Act of 1951. § 342(a), 65 Stat. 515.

[84] S. REP. No. 781, 82d Cong., 1st Sess. 44, 63 (1951).

[85] Revenue Act of 1951, § 319, 65 STAT. 497.

[86] 97 CONG. REC. 12335–36 (1951).

[87] § 613(b)(6). See S. REP. No. 1622, at 78–79, 331–32.

[88] §§ 613(b)(6)(A), (B).

[89] 100 CONG. REC. 9043 (daily ed. July 1, 1954) (both senators were from Texas).

[90] § 613(b)(6).

[91] *Hearings Before the Senate Committee on Finance on H.R. 8300*, 83d Cong., 2d Sess., pt. 3, at 1267 (1954).

[92] §§ 611(a), 613.

[93] Baker & Griswold, *Percentage Depletion—*

A Correspondence, 64 HARV. L. REV. 361, 378–79 (1951).

[94] *Id.* at 362; see statement of General Ernest Thompson in *Hearings Before the House Committee on Ways and Means on Forty Topics Pertaining to the General Revision of the Internal Revenue Code*, 83d Cong., 1st Sess., pt. 3, at 2001, 2003–04 (1953).

[95] Baker & Griswold, *supra* note 93, at 371, 377.

[96] See also Heller, *Practical Limitations on the Federal Net Income Tax: Limitations of the Federal Individual Income Tax*, 7 J. FINANCE 185, 197 (1952).

[97] BLOUGH, THE FEDERAL TAXING PROCESS 48 (1952).

[98] BUTTERS, THOMPSON, & BOLLINGER, EFFECTS OF TAXATION—INVESTMENTS BY INDIVIDUALS 65, 84 (1953). Much of the material in subsection *A* is based upon this excellent book.

[99] *Id.*, at 85–86.

[100] BUTTERS, LINTNER, & CARY, EFFECTS OF TAXATION—CORPORATE MERGERS 94 (1951); CARY, *The Effect of Taxation on Selling Out a Corporate Business for Cash*, 45 ILL. L. REV. 423, 426 (1950).

[101] § 631(c).

[102] BUTTERS, THOMPSON, & BOLLINGER, *op. cit. supra* note 98, at 84.

[103] *Id.* at 39.

[104] See, *e.g.*, *Hearings Before the House Ways and Means Committee on Revenue Revision of 1942*, 77th Cong., 2d Sess., pt. 2, at 1517 (1942). See also *Hearings Before the House Ways and Means Committee on Revenue Revision of 1951*, 82d Cong., 1st Sess., pt. 2, at 903–1159 (1951).

[105] See BUTTERS, THOMPSON, & BOLLINGER, EFFECTS OF TAXATION—INVESTMENTS BY INDIVIDUALS 316–17 (1953).

[106] See p. 757 *supra*.

[107] See BUTTERS, THOMPSON, & BOLLINGER, *op. cit. supra* note 105, at 131.

[108] See p. 575 *supra*.

[109] §§ 34, 116.

[110] S. REP. No. 1622, at 6.

[111] *Ibid.*

[112] In general, the advantage to executives, *i.e.*, employees, is that sums contributed by the corporation, while immediately deductible by the corporation, are not taxable to the recipient until their ultimate receipt.

[113] §§ 401(a)(3)–(5).

[114] The extensive use of such plans by established concerns is set forth in HALL, EFFECTS OF TAXATION—EXECUTIVE COMPENSATION AND RETIREMENT PLANS (1951). See also Lyon, *Capital Gains Benefits Connected with Executive Retirement*, N.Y.U. 12TH ANN. INST. FED. TAX. 365 (1954).

[115] § 2039(c).

[116] Deferred compensation plans are discussed in WASHINGTON & ROTHSCHILD, COMPENSATING THE CORPORATE EXECUTIVE 168–85 (1951).

[117] Revenue Act of 1950, §§ 218(a), (b), 64 STAT. 942, added § 130A to the 1939 Code; retained as § 421 of the new Code.

[118] S. REP. No. 1622, at 58.

[119] For early criticisms of the new stock option provisions, see Lyon, *Employee Stock Options under the Revenue Act of 1950*, 51 COLUM. L. REV. 1, 52–57 (1951); Griswold, *The Blessings of Taxation: Recent Trends in the Law of Federal Taxation*, 36 A.B.A.J. 999, 1057 (1950); see generally Dean, *Employee Stock Options*, 66 HARV. L. REV. 1403 (1953).

[120] Kerbs v. California Eastern Airways, Inc., 90 A. 2d 652, 656–57 (Del. 1952); Gottlieb v. Heyden Chemical Corp., 90 A. 2d 660, 664 (Del. 1952).

[121] For a demonstration of the potential profits ($21 million for the corporate officers participating in 26 stock option plans), see Stryker, *Do Stock Options Pay?* Fortune, Dec. 1954, p. 118; see also Miller, *Capital Gains Taxation of the Fruits of Personal Effort: Before and Under the 1954 Code*, 64 YALE L.J. 1 (1954).

[122] *Id.* at 50.

[123] For lurid expositions of the growing use of expense accounts, see Havemann, *Expense Account Aristocracy*, Life, March 9, 1953, p. 140; F. ALLEN, THE BIG CHANGE 215–18 (1952).

[124] See Cary, *The Effect of Taxation on Selling Out a Corporate Business for Cash*, 45 ILL. L. REV. 423 (1950).

[125] § 741, *Cf.* Williams v. McGowan, 152 F.2d 570 (2d Cir. 1945); Swiren v. Commissioner, 183 F.2d 656 (7th Cir. 1950); Hatch's Estate v. Commissioner, 198 F.2d 26 (9th Cir. 1952).

[126] See note 123 *supra*.

[127] For recommendations with respect to profit-sharing and pension plans for closely-held firms, see 1 P–H CORP. SERV. Rep. Bull. No. 5 (1953).

[128] § 340, 65 STAT. 511 (1951); see also SUMMARY 1951 ACT 41.

[129] See, *e.g.*, the testimony of the Director of the Department of Education and Research of the CIO, in the *Hearings on the Revenue Act of 1951 Before the Senate Finance Committee* 82d Cong., 1st Sess., pt. 2, at 932 (1951).

[130] §§ 401–04.

[131] § 402(a)(2); *cf.* Revenue Act of 1951, § 335(a), 65 STAT. 507.

[132] § 106.

[133] § 104.

[134] § 105(d).

[135] § 101.

[136] N.Y. Times, Oct. 17, 1954, § 3, p. 1, col. 5.

[137] Ratchford, *Practical Limitations to the Net Income Tax—General*, 7 J. FINANCE 203, 211 (1952). "During 1949 these [fringe benefit] programs became the primary issue on the collective bargaining agenda of many unions . . . This intensified drive . . . resulted in the extension of these plans to more than 7½ million workers by mid-1950." *Id.* at 210–11.

[138] See Guttentag, Leonard, & Rodewald, *Federal Income Taxation of Fringe Benefits: A Specific Proposal*, 6 NAT'L TAX. J. 250 (1953).

[139] Ratchford, *supra* note 137, at 211.

[140] "For 1945 . . . the startling result is that 'only 36 per cent of farm income was reported on tax returns . . . as against 87 per cent of nonfarm entrepreneurial income'." Heller, *Practical Limitations on the Federal Net Income Tax: Limitations of the Federal Individual Income Tax*, 7 J. FINANCE 185, 198 (1952).

[141] § 324, 65 STAT. 501.

[142] H.R. 4423, 82d Cong., 1st Sess. § 1175 (1951). In the course of the Senate debate Senator George said, "I certainly cannot take the chicken amendment to conference. Turkeys were included somehow, I do not know how." 97 CONG. REC. 12336–38 (1951).

[143] *Postponement of Income Tax on Income Set Aside for Retirement, Hearings Before the House Committee on Ways and Means on H.R. 4371, 4373, 3456*, 82d Cong., 2d Sess. 13, 14, 18, 19 (1952); Silverson, *Earned Income and Ability to Pay*, 3 TAX L. REV. 299 (1948).

[144] See § 1301.

[145] See, *e.g.*, the Jenkins-Keough Bill, H.R. 10, 83d Cong., 1st Sess. (1953); see generally Note, 66 HARV. L. R51. 1105 (1953).

[146] See § 1221(3); see p. 752 *supra*.

[147] TAX INSTITUTE, CAPITAL GAINS TAXATION 22 (1946).

[148] For a general discussion of Henry Simons' views on the subject of fairness see SIMONS, FEDERAL TAX REFORM 8–12 (1950).

[149] See Blum & Johnson, *1913–2013, A Hundred Years of Income Taxation*, 33 TAXES 41 (1955).

[150] BLOUGH, THE FEDERAL TAXING PROCESS 27 (1952).

[151] As described in Blum, *The Decline and Fall of Capital Gains: 1921–1957*, 28 TAXES 838 (1950); see also Johnson, *The Last Taxpayer*, 30 TAXES 181 (1952).

[152] Heller, *Practical Limitations on the Federal Net-Income Tax: Limitations of the Federal Individual Income Tax*, 7 J. FINANCE 185, 195 (1952).

[153] Miller, *Ethical Problems in Lobbying for Legislation*, 8 TAX L. REV. 19, 22 (1952).

[154] H.R. REP. No. 871, 78th Cong., 1st Sess., pt. 2, at 7 (1943).

[155] See Cary, *The Income Tax Amendment: A Strait Jacket for Sound Fiscal Policy*, 39 A.B.A.J. 885, 886 (1953).

[156] BLOUGH, THE FEDERAL TAXING PROCESS 93 (1952).

[157] See p. 748 *supra*.

[158] See Dakin, *The Capital Gains Treasure Chest: Rational Extension or Expedient Distortion?*, 14 LA. L. REV. 505, 507, (1954).

[159] See also BUTTERS, THOMPSON, & BOLLINGER, EFFECTS OF TAXATION—INVESTMENTS BY INDIVIDUALS (1953).

[160] BLOUGH, THE FEDERAL TAXING PROCESS 41 (1952).

[161] Miller, *Ethical Problems in Lobbying for Legislation*, 8 TAX L. REV. 19, 22 (1952); see *also* PAUL, TAXATION IN THE UNITED STATES 773 (1954).

[162] United States v. Kahriger, 345 U.S. 22, 36 (1953) (concurring opinion).

[163] See Riehm, *Federal Taxation: Perspective During the Fifth Decade*, 52 MICH. L. REV. 941 (1954).

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THE CONGRESS AND THE TAX LOBBYIST—HOW SPECIAL TAX PROVISIONS GET ENACTED†

(By Stanley S. Surrey*)

The development of a proper tax structure for an economy as large and as complex as ours is a task of the first magnitude. Given the dimensions of the task and the political arena in which it must be undertaken, the Congress has performed the essential work successfully. It has shown remarkable collective wisdom in shaping our federal tax structure, and its accomplishment in this field may be measured favorably against the tax systems of other countries. Since we live in an era when both professional learning and public opinion regard a progressive income tax as the most appropriate method of raising governmental revenue,[1] and since the progressive income tax is the mainstay of our tax structure, this accomplishment is remarkable. For a progressive income tax is also the most complicated and difficult of taxes to maintain. It places a premium on sensitivity to economic changes and to public attitudes. It demands high technical skills on the part of those who shape the legislative structure, who administer and interpret its provisions, who advise the public how to order its business and family affairs under the tax. It requires a literate citizenry with a repect for law and a willingness to shoulder fiscal burdens. Our over-all successful record in relying on the progressive income tax is thus a noteworthy achievement in public finance.

The continuation of this success with our federal-tax structure demands, however, constant alertness to the correction of faults as they appear. Recently there has been considerable criticism directed against the existence in our tax laws of provisions granting special treatment to certain groups or individuals. This criticism is aimed at both the increasing number of new provisions of this kind and the continuation of old provisions the significance of which has become far more important with passage of time. Some, it is true, have irresponsibly resorted to criticisms of this character as a justification for discarding the income tax.[2] But nearly all who have voiced objections to special-treatment provisions have done so in the hope that a consideration of the problem would result in a strengthening of the income tax.[3]

The criticisms on the whole involve these

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assumptions: (1) that it is essential under a progressive income tax, and also progressive estate and gift taxes, to adhere as far as possible to the criterion of equity or fairness. Stated simply, this criterion demands that the income-tax burden should as far as possible apply equally to persons with the same dollar income; (2) that the Congress has not always followed this criterion in tax legislation; and (3) that there are a good many instances in the income, estate, and gift taxes in which the failure to follow this criterion is not properly justified by the requirements of other criteria. As illustrations, the critics point to such matters under the income tax as the present exceedingly preferential treatment of capital gains and especially its application to employee stock options, pension-trust terminations, coal and timber royalties, patent royalties, growing crops, livestock, and so on; percentage depletion; the exemption of interest on state and local obligations; the continual expansion of deductions for personal expenses unrelated to profit-seeking activities; the provisions for the blind and the aged; and the exemption of certain fringe benefits. In the estate-tax area, reference is made, for example, to the exemption of employee annuities and of transferred life insurance. In addition to these provisions involving certain groups in our society, the criticisms are of course directed against these special provisions which can affect only a handful of taxpayers, or even only one or two, such as the so-called "Louis B. Mayer amendment." [4].

Often these provisions are spoken of as "loopholes" or "special tax privileges." Of course, the use of the appellation "loophole" is a matter of viewpoint. What is a "tax loophole" to a CIO or an ADA meeting is merely "relief from special hardship or intolerable rates" to an American Bankers Association or NAM meeting—and vice versa. Obviously we do not all feel the same way about each of the examples mentioned above. But despite an absence of consensus on any particular list of provisions there seems to be considerable agreement that Congress in its tax legislation has adopted provisions favoring special groups or special individuals and that these provisions run counter to our notions of tax fairness. Moreover, the tendency of Congress to act this way seems to be increasing.

Against this background, the purpose of this article is to consider the question of why the Congress enacts these special tax provisions, to use a fairly neutral term. Not being a congressman, I cannot of course really answer the question. Nor can I hope to enumerate all of the factors that might influence a congressman in this area. But it may be useful to speculate about some of these factors and to see if there are ways in which the consideration of tax legislation could be altered for the better. It may help first to sketch some of the major factors that are operative in tax legislation. I propose to do this only briefly, since these factors are generally well recognized.

I. SOME MAJOR FACTORS

(1) *High Rates of Tax.*—The high rates of the individual income tax, and of the estate and gift taxes, are probably the major factor in producing special tax legislation. This is, in a sense, a truism, for without something to be relieved of, there would be no need to press for relief. The point is that the average congressman does not basically believe in the present rates of income tax in the upper brackets. When he sees them applied to individual cases, he thinks them too high and therefore unfair. Any argument for relief which starts off by stating that these high rates are working a "special hardship" in a particular case or are "penalizing" a particular taxpayer—to use some words from the tax lobbyist's approved list of effective phrases—has the initial advantage of having a sympathetic listener. Put the other way around, an advocate of the "Louis B. Mayer amendment" would simply make no headway with a congressman who firmly believed in a ninety-one-per-cent top tax rate. But most congressmen apparently do not believe in such a rate—certainly not in the concrete and perhaps not even in the abstract. Since they are not, however, willing to reduce those rates directly, the natural outcome is indirect reduction through special provisions.[5]

The United States is not unique in this regard. Students of the British tax system, for example, state that the very high rates of that system are considerably ameliorated in a number of ways through which the wealthy can escape the full impact of those rates.[6] The exclusion of capital gains is one broad method. The estate tax offers a number of avoidance possibilities. Indeed, it may be said that both here and abroad, as various pressures have driven tax rates to top levels, the refuge of the wealthy has been in the brains of their tax lawyers and in the technicalities of the tax law. Governments are generally aware of these escape routes but are reluctant to close them and enforce with vigor the excessively high tax rates. In effect, a sort of political paralysis appears to be forming in countries relying strongly on income taxation, under which no clear way has appeared to move away from the combination of high rates tempered by many avoidance possibilities. The obvious solution would seem to be simultaneous lowering of the rates and closing of the escape routes. But conservative governments fear the political consequences of the rate reduction for the wealthy although their effective tax burden would not be lessened. They may also fear that, once the system were tightened and stabilized at a lower tax-rate level, political pressures might drive the rates up again, this time with a much more severe effect. Liberal governments fear that they cannot persuade their supporters to accept tax-rate reductions for the wealthy in such clear terms as reduction of a ninety-per-cent rate to fifty per cent or sixty-five per cent, especially when the starting rates are high and the conpensating factor is merely the closing of a number of loopholes which the public cannot understand. This is obviously a dilemma which the income tax must solve in the years ahead.[7]

(2) *Tax Polarity.*—The existence of two rate structures in the income tax and of two types of taxes on the transfer of wealth permits a congressman to favor a special group by placing its situation under the lower rate structure or the less effective tax. Thus, the presence of the twenty-five-per-cent capital-gains rate enables Congress to shift an executive stock option from the high rates applying to executive compensation to the lower capital-gains rate. If there were no special capital-gains rate, or if we did not tax capital gains at all, this shift could not be made, since a congressman would not completely exempt the stock option. Similarly, the presence of a gift tax permits certain transfers of wealth, since as transferred life insurance, to be shifted from the higher estate tax to the lower gift tax. As a consequence, given this congressional tendency, we reach the paradox that having a gift tax as well as an estate tax may, given the present lack of proper co-ordination of the two taxes, result in less effective taxation of certain transfers of wealth than if we relied only on an estate tax.

(3) *Technical Complexity.*—The high rates of tax, the complexities of modern business, the desires of the wealthy and middle-income groups for clear tax charts to guide their family planning, the Government's need for protection against tax avoidance, the claims of tax equity, and various other factors have combined to make the income, estate, and gift taxes exceedingly complex in technical detail. These technicalities involve the drawing of countless dividing lines. Consequently, a case on the high-tax side of a line may closely resemble the cases on the other side receiving more favorable tax treatment. The result is a fertile ground for assertions of inequity and hardship as particular taxpayers desire legislation to bend the dividing lines and thereby extend the favorable treatment to their situations. Also, faulty tax planning, ill-advised legal steps, or transactions concluded in ignorance of tax law can produce severe tax consequences. These "tax penalties" could have been averted under an informed tax guidance that would have taken the taxpayer safely through the technical tax maze. In these circumstances, the taxpayer facing severe monetary hurt because of a "mere technicality" (to use the phrase that will be pressed on the congressman) is quite likely to evoke considerable sympathy for his plight.

(4) *History and Politics.*—The accidents of tax history also play a major role in the existence of special provisions. Tax-exempt securities in large part achieved their favored status through the vagaries of constitutional interpretation and not through any special desire to relieve the wealthy. Percentage depletion for oil and gas and the deduction of intangible drilling expenses have their roots in legislative compromises and administrative interpretation which for the most part do not appear to have been planned as special-interest relief.[8] It is only later that the extent of the tax generosity inherent in such provisions is comprehended. But by then they are in the law, the problem of the group benefited is one of defense rather than attack, and the strategic advantages are all with that group. This is especially so when the area involved touches on major political matters, as in the case of percentage depletion and tax-exempt securities.

Political considerations naturally overhang this whole area, for taxation is a sensitive and volatile matter. Any major congressional action represents the compromises of the legislator as he weighs and balances the strong forces constantly focused on him by the pressure groups of the country. Many special provisions—capital gains, for one—are caught in these swirling pressures. The response of the legislator to issues raised by these provisions is, like his response to the general level of tax rates or to personal exemptions, a political response of considerable significance. It is an important part of the fabric of political responses which determines whether he will remain a congressman and whether his party will control Congress. In this group of provisions highly affected by political considerations are those "tax relief" provisions which have a broad public appeal and are thus likely to be regarded by the congressman as useful "vote-getters"—a "baby-sitter" deduction, the exclusion of "retirement income," or an extra exemption for the "aged." The political appeal of favorable action on these issues is quite likely to outweigh what a congressman would regard as "technical" tax arguments to the contrary.

(5) *Separation of Executive and Legislative Branches of Government.*—But many of the tax provisions we are considering do not lie at this political level. They are simply a part of the technical tax law. They are not of major importance in their revenue impact. But they are of major importance to the group or individual benefited and they are glaring in their departure from tax fairness. The inquiry, therefore, must here be directed toward some of the institutional features in the tax-legislation process which may be responsible for special provisions of this technical variety. Lacking direct knowledge, I must leave to others the task of describing the types of pressure from constituents or other groups which may be operative in a particular case. While these pressures may explain why the congressman who

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is directly subject to the pressures may act and vote for a special provision, they do not explain why other congressmen, not so subject, go along with the proposal. We must look for reasons beyond these pressures if we are to understand the adoption of these special tax provisions. A number of these reasons lie in the institutional aspects of the tax legislative process.

Basic to a consideration of these institutional aspects are the nature of our governmental system and the relationship between the Congress and the executive. A different governmental structure might give the legislator little or nothing to say about tax provisions. Under a parliamentary government, the revenue department retains tight control over the statutory development of tax law. It is responsive only to the broad political issues that require decisions of a party nature. Beyond these, the governmental tax technicians mold the structure, so that the tax lobbyist pressing for special legislative consideration or the legislator seeking to ease a constituent's problem by special tax relief is not a significant part of the tax scene. Thus, under the British practice, finance bills are framed by the Treasury and the Board of Inland Revenue. The bills are debated in the Committee of Ways and Means—the entire House of Commons sitting under another name and with different rules of procedure. Here is an opportunity for anyone sufficiently concerned, who can persuade a Member of Parliament to voice his proposals, to have these proposals considered in the debates on the bill. Such discussion may focus attention on weaknesses in the bill or law, and if the proposal is considered meritorious by the minister in charge of the bill a change will be made. But if the government does not accept a member's amendment, party discipline is such that the minister is always supported and the amendment defeated. In practice, consequently, finance bills generally emerge in about the same form as introduced.[9]

The United States picture is quite different, for here Congress occupies the role of mediator between the tax views of the executive and the demands of the pressure groups. This is so whether the tax issue involved is a major political matter or a minor technical point. The Congress is zealous in maintaining this position in the tax field. A factor of special importance here is article I, section 7, of the Constitution, which provides that "All Bills for raising Revenue shall originate in the House of Representatives." The House Committee on Ways and Means jealously guards this clause against possible inroads by the Senate. It also protects its jurisdiction over revenue legislation from encroachment by other House committees. When senators and other congressmen must toe the line, the executive is not likely to be permitted to occupy a superior position. Further, a legislator regards tax matters as politically very sensitive, and hence as having a significant bearing on elections. It is no accident that the tax committees are generally strong committees, whose membership is carefully controlled by the party leaders.

The Congress, consequently, regards the shaping of a revenue bill as very much its prerogative. It will seek the views of the executive, for there is a respect for the sustained labors of those in the executive departments and also a recognition, varying with the times, of the importance of presidential programs. But control over the legislation itself, both as to broad policies and as to details, rests with the Congress. Hence a congressman, and especially a member of the tax committees, is in a position to make the tax laws bend in favor of a particular individual or group despite strong objection from the executive branch. Under such a governmental system the importance to the tax structure of the institutional factors that influence a congressman's decision is obvious.

II. SOME INSTITUTIONAL FACTORS

(1) *The Congressman's Desire To Be Helpful.*—A congressman's instincts are to be helpful and friendly. If it were otherwise, he would not be in Congress. When a constituent, or some other person who is in a position to claim attention, seeks legislative action, the congressman likes to respond within reason. If the proposal presented to him is at all rational he will, in all probability, at least introduce it in bill form so as not to offend the constituent. If the congressman is not a member of one of the tax committees, that may end the matter—but it may not, for the proposal has been launched and lies ready to be pushed ahead by whatever pressures may be generated in its behalf.

The desire—sometimes the need—of a congressman to be useful often places a congressman who sits on one of the tax committees, the House Committee on Ways and Means or the Senate Committee on Finance, in a difficult position. A fellow congressman who sits on the Public Works Committee, for example, can respond to constituent pressure by approving the project involved; a member of the Appropriations Committee can respond by a favorable vote on a specific appropriation. But a congressman on a tax committee can respond only by pushing through a special tax provision. His legislative stock in trade, so to speak, is special tax treatment. This difficulty is especially acute in the case of those congressmen who come to sit on a tax committee only after they have been members of other committees and have become so accustomed to using their committee powers in helpful ways that the habit persists. And after all, the congressman who sits on a tax committee is frequently regarded as a powerful personage at home, in part because the fact of membership is often used by the congressman as an argument to support continued re-election. The congressman must be able to live up to this stature and obtain successful action on a proposal—as a senator on the Senate Finance Committee once put it, "What's the good of being on this committee if you can't get through a little old amendment now and then?" Sometimes, however, a senior congressman on a tax committee has enough influence and personal friendships around the Congress so that he can, when necessary, take care of his constituents in legislative ways other than tax proposals; if so, he is more likely to be quite objective when it comes to tax problems.

In view of all this, it is a credit to the congressmen on the tax committees that our tax laws are not in far weaker shape. Congressmen have withstood political pressures more staunchly than most people assume. Knowing the intensity of these pressures, the party leaders have tended to appoint members from relatively safe districts to these committees. But the institutional factors are such that some yielding to pressure must occur, and there is concern that the situation is slowly worsening. I believe that this concern is present inside the Congress as well as out, and that those congressmen subject to pressures would welcome re-examination of the institutional aspects of tax legislation if it would lead to a lessening of these pressures.

(2) *Lack of Congressional Appreciation of Departure From Fairness.*—In many cases the congressman considering a special tax provision may not realize that tax fairnesss is at all involved. He sees only the problem of the particular constituent or group concerned. The case in this focus may be very appealing, for human beings are involved with human problems. The income tax, always an impersonal, severe, monetary burden, becomes an oppressive force bearing down on men in difficulty. The congressman may therefore not even appreciate that arguments of over-all fairness and equity have any relation to the question, or may very well think them too intangible and remote. Provisions for the relief of the blind and the aged are perhaps illustrations. Or the congressman, moved simply by a desire to help a constituent, may not understand the ramifications of the proposal. He is not a tax technician and he may view the proposal in isolation rather than perceive its relationship to the intricate technical structure of the revenue code. The proposal, so viewed, becomes merely a "little old amendment" which helps a constituent and does no harm. His brother congressmen are quite willing to be good fellows and go along, especially if the congressman urging the proposal is well-liked. After all, they too from time to time will have "little old amendments" to propose. Thus, in 1955 the Ways and Means Committee decided that in the initial consideration of members' bills dealing with technical matters it would allow each member one bill to be considered and then reported by the full committee if the bill met with unanimous agreement.

The attitude that the proposal does no "harm" needs explanation. "Harm" to most congressmen considering a tax proposal means "revenue loss"—if the provision is enacted it will cost the "Treasury" so many dollars in revenue. (Note that the cost is to the "Treasury" and not the United States or the public. This attitude, which views the bureaucratic Treasury as the obstacle, is quite important, and I shall consider it later.) If the dollar cost is high, the proposal faces a severe obstacle. The friendly congressman can now say to his constituent that the proposal is fair, that everyone agrees it has merit and that it is appealing, but that it simply costs too much at this time when the federal budget is so large and so on. But for a great many special proposals the cost is not high, perhaps at most a few millions. Therefore in these situations no "harm" is done. For "harm" does not include the fact that special treatment is afforded, that special treatment here breeds special provisions elsewhere, that once a foothold is obtained the special treatment expands and becomes costly. All this can seem quite remote to the congressman when measured against an appealing situation. When the immediate cost is high but the special provision has a reasonably broad application—the aged, the blind, and the like—the immediate-loss-of-revenue argument is far less persuasive and the result will depend on other considerations. These considerations may be difficulties of governmental administration or, more important, of securing taxpayer compliance, the potentialities for greater revenue loss if the provision is likely to be expanded, and even the merits of the proposal as a tax matter. But when a limited special provision is involved, the absence of "cost" gives the provision a significant advantage.

(3) *The Treasury Department's Presentation.*—The congressman's failure to recognize that tax fairness is at all involved may often be due to the inadequacy of the Treasury Department's presentation of the issues. This is not said critically, but by way of explanation. The problem facing the Treasury in these matters is formidable. The interested constituents or groups are generally skillful in presenting their cases in appealing form. Their energies are concentrated on one matter; they have time and money to devote to it; they may have the advantage of personal acquaintance, directly or through intermediaries, with the congressman; they can obtain skilled counsel informed on the ways of the Congress. The Treasury's tax staff must tackle all of these problems; its members are usually not chosen for skill in the presenta-

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tion of issues or in handling congressmen; although on the whole remarkably good, considering the compensation, they are rarely among the ablest in the tax field, nor do they usually have the needed experience.

Further, private groups concentrate on making the best case possible and in so doing gloss over or forget the unfavorable aspects. They present the proposal in its simplest form and often avoid the complications involved in embodying the proposal in statutory drafts. At times a congressman is misled by this simple but convincing presentation and commits himself before he is aware of the full implications of the proposal. The treasury staff, on the other hand, feels compelled to present the pros and cons and to point out the complications. It is both explaining and criticizing—not just attacking—and its presentation may seem confusing rather than informative to the congressman. When he compares the complex, technical, "on the one hand, but on the other hand" explanation of the treasury staff with the deceptively simple and certainly forceful description of the problem presented by the private group, the latter is bound to achieve a considerable advantage. Congressmen, and even most congressmen on the tax committees, are laymen in tax matters; they are not tax technicians. Again this is not said critically. A congressman has a great many tasks to perform and decisions to make, so that he cannot—and really should not—be immersed in the technicalities of everything. After all, how skillful in tax law is the average lawyer?

Under these circumstances, the treasury type of explanation may at times be not really helpful. Yet if the treasury staff resorts to oversimplification, it is subject to the criticism from the committee members that it is not performing its proper role. This is especially so when the oversimplification may appear to be a one-sided attack on the proposal; the treasury staff is there to advise and inform, not to decide. The term "treasury staff" in this context refers to the treasury tax technicians. Their stock in trade before the committee is fairness and completeness of explanation—they are the "tax experts." If there are any departures from integrity in this regard, then the expert's usefulness is ended. The function of a top treasury policy-maker, usually an under or assistant secretary, is quite different. He is there to present the policy point of view of the executive branch and to use what talents he has to persuade the Congress to accept that point of view. The committee members can take his view or leave it, and their attitude toward the policy-maker depends on the imponderables of personal reactions and the ponderables of political forces. While the newspapers and the party news releases may praise this treasury official as a tax expert, he is not so regarded by the congressmen. He is operating at their level and not the technical level, and the congressman can readily appreciate the difference.

The treasury tax technicians are the "treasury experts." But as any skilled lawyer knows, it is not easy for an expert to explain complex matters to the uninitiated. Any tax lawyer who has faced the task of presenting extremely technical material to a tax-institute audience of nontax lawyers will readily appreciate the problem. Even this analogy is far from complete, for the treasury expert faces an audience which is sympathetic to the proposal under discussion, demands a complete presentation of the issues, and establishes standards under which any departure or even suspected departure from fairness is well-nigh fatal. Under these conditions, it is understandable that the explanation of an expert who values his integrity is often in the end likely only to confuse and not to enlighten. In this setting, the congressman struggling to perform his legislative task will often find the way to a decision lighted only by his sympathies.

Also, the treasury staff is usually not well known to the congressman. Its members, not being political, ordinarily do not mix with him at the same level, nor do they meet him socially. Hence the congressman is generally not in a position to act on the assumption that, although he doesn't fully understand all of what they say, he knows them to be good fellows and they are probably right. Nor do they spend with an individual congressman the amount of time needed to develop the problem fully. Thus in a committee meeting, the congressman must often decide an issue after only a minimum amount of discussion and before his biases and preconceptions have been replaced by a real understanding of the issues. The interested groups and the tax lobbyists, on the other hand, have the time to brief the various congressmen on their proposals. They are pushing one proposal and can concentrate on it. The treasury staff is faced with considering all of the proposals, and the time and personnel needed for an adequate informal discussion on each proposal with the necessary congressmen are not available.

Of course, if the interested group does not carry out its lobbying task carefully, the treasury staff has an easier time. It may point out that the proposal, especially if it is in legislative form, gives unintended benefits—will open up a "loophole." While this may be only the result of faulty drafting and could be corrected, it may be enough to stop the proposal at the time. Thus, it has been said that the tax lobbyist's task is to prepare a draft of an amendment simple enough so that a person who is not a tax expert can understand it, yet sufficiently precise that the treasury staff cannot demolish it. Or the congressman explaining a proposal in committee executive session may not have been briefed on the arguments involved or on the details of the proposal. Perhaps the lobbyist failed to point out how far the proposal really goes, so that the proposal if enacted would have a considerably greater effect than the congressman thought. If so, the Treasury's task—and its application of the term "loophole"—is considerably eased. Or the tax lobbyist may have failed to explain his proposal to enough congressmen on the committee or to the "key members," so that the particular congressman pushing the proposal is left without friendly support from other members. But all of this simply means a less-than-skillful lobbying performance. Just as cases can be lost in court through inadequately prepared briefs or poorly developed oral arguments, so can they be lost before the legislature.

(4) *Lack of Omniscience on the Part of the Treasury.*—The treasury tax staff is not omniscent. Yet understanding approaching omniscience is needed to do its job. A lack of knowledge on any particular matter, a failure of skill at any moment, can be fatal. The approach of the average congressman is to hear the private group, find out in general what it wants, react sympathetically for a variety of reasons, and then ask the Treasury whether there is any objection to the proposal. If the Treasury is off its guard and acquiesces, the proposal becomes law. If the Treasury is unprepared and presents a weak case, the proposal becomes law. Equally serious is the in-between situation in which the Treasury acknowledges that some hardship is present in the particular situation, but points out that the difficulty is but a phase of a general problem and that it has not yet been able fully to analyze the general area. It therefore urges that the particular proposal be postponed until further study is given to the whole matter. But recognition of some hardship and of some merit in his particular proposal is all that the congressman needs. His constituent wants relief from that admitted hardship now, and not years later when the whole matter has been thought through and his case fitted into a solution appropriate for many cases. Hence the congressman will seek approval of the proposal in the limited form necessary to solve the particular problem presented to him—and a special tax provision is thereby born.

It is obvious, given the vast number of proposals to which it must react, that the Treasury must sometimes fail. The failure rate will vary with the competence of the treasury staff at any particular time, and there is a considerable variation in that competence. It will vary, moreover, with the degree of importance which the treasury policy-makers attach to research on tax matters, and here also differences in attitude are marked. But even when competence is at a high general level and there is a proper appreciation of the need for extended staff research, errors in judgment or gaps in knowledge are inevitable. The whole matter of capital gains for pension-trust terminations,[10] for example, started with an error in judgment on the Treasury's part in 1942 when is acquiesced in capital-gain treatment as a solution for the bunched-income problem present in this area. It so happened that the problem was presented in the context of a pension trust in which only the lower-bracket taxpayers received lump-sums distributions, and as an *ad hoc* solution the result was not too objectionable. But there was a failure to think through the problem, a failure caused by lack of time and lack of knowledge about the provisions respecting termination of pension trusts. Thus the provision got its start—and the rule of the camel's nose is cardinal in the field of tax privileges.[11]

Lack of omniscience may disclose itself in the drafting process. Inadequate drafting can result from lack of knowledge of the ramifications of the problem, from failure to analyze the problem in detail, or from failure to scrutinize closely the words used. The effect, again, may be that a special benefit is unintentionally granted. In the process of time, however, rationalizations as to the "intent of Congress" gradually transform this drafting carelessness into a major tax policy which the special-interest group benefited will defend with a loftiness or argument far removed from the origins of the benefit. There is much of the Daughters of the American Revolution in tax privileges.

An example of this phenomenon is the Western Hemisphere-trade-corporation provision.[12] The application of that provision to simple export operations, its principal application today, resulted from insufficient knowledge on the part of the draftsmen of the general tax background for this area, and lack of recognition of the problem to be covered and of the significance of the words used in the draft. Yet the provision has traveled far from this humble origin.

Many special provisions represent acute instances of a general difficulty. If there has been adequate study of the general problem, the Treasury is then in a position either to solve the general problem as well as the aggravated example or to demonstrate convincingly that the general problem cannot be solved by means consistent with the larger demands of our tax structure so that relief for a particular taxpayer alone is unfair and undesirable. But unless the Treasury has had the time or made the effort to study the problem as a whole it is in a difficult position to deal with the particular situation. For, as stated earlier, the congressman is faced with the issue of relief now for a particular hardship. Consequently, the Treasury, once it sees defeat ahead on the issue of relief for the particular constituent or group involved, will then, in self-defense and fear of the unknown, attempt to reduce the problem to its narrowest boundaries. Generally these boundaries are determined simply by what is needed to meet the particular situa-

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tion presented to the congressman. He will scarcely object to having only his case solved, and both sides will therefore acquiesce in a legislative solution confined in terms to that case. This is in large part the explanation for many of the special provisions that clutter up the tax law. Sometimes the general problem is later solved, and the special provision disappears. In other instances the special provision remains, its immediate task accomplished and the revenue cost and administrative difficulties that are involved in a solution of the general problem avoided. Sections 1301–04 of the Code, relating to bunched income attributable to prior years, are an example of a general solution growing out of a special provision previously adopted,[13] and even they represent instances of the unsolved broader problem of averaging. Section 303, removing dividend taxation from corporate distributions in redemption of stock to enable the payment of death taxes by the estate holding the stock, is another example.[14] The "Mayer amendment" in the field of deferred compensation, the various *ad hoc* benefits in the capital gain field, and section 1342 in the transactional-accounting field,[15] remain as isolated resolutions of particular situations in areas in which the general problem has not yet been faced.

(5) *Lack of Opposition Apart From the Treasury Department to Proponents of Special Tax Provisions.*—The critical importance that attaches to the level of treasury competence and the fatal consequencs of any slip on its part derive from its unique position in tax legislation. The question, "Who speaks for tax equity and tax fairness?," is answered today largely in terms of only the Treasury Department. If that department fails to respond, then tax fairness has no champion before the Congress. Moreover, it must respond with vigor and determination, and after a full explanation of the matter it must take a forthright stand on the issues. A Treasury Department that contents itself with explaining the issues and then solemnly declaring the matter to be one for the policy determination of Congress abdicates its responsibility. The congressman understands aggressiveness and a firm position. He is often in the position of the small boy inwardly seeking parental bounds for his conduct while outwardly disclaiming against them. He may not accept policy guidance from the treasury policy spokesman, but he wants it presented. He will invariably interpret a treasury statement that the matter is one for his own policy decision as a victory for the seeker of the special provision.

Thus, in the tax bouts that a congressman witnesses the Treasury is invariably in one corner of the ring. Assuming the Treasury decides to do battle, which is hardly a safe assumption at all times, it is the Treasury versus percentage depletion, the Treasury versus capital gains, the Treasury versus this constituent, the Treasury versus that private group. The effect on the congressman as referee is inevitable. He simply cannot let every battle be won by the Treasury, and hence every so often he gives the victory to the sponsors of a special provision. Moreover, the Treasury is not an impersonal antagonist—it is represented before the Congress by individuals. These individuals are constantly forced to say that enactment of this proposal will be unfair, and the same of the next, and the next. The congressman, being only human, is bound from time to time to look upon these individuals as the Cassandras of the tax world. To avoid this dilemma, the Treasury in a close case will sometimes concede the issue if the proposal can be narrowly confined. It feels compelled to say "yes" once in a while simply to demonstrate that it maintains a balanced judgment and possesses a sense of fairness. A special provision is thus enacted simply because it happens to have somewhat more merit than the numerous other special proposals before the committees and because an affirmative answer here by the Treasury will protect negative responses to the other proposals.

At another level, what should the Treasury reply to a congressman who says, "I have fought hard in this committee for your position on all of the major issues. Yet when I introduce a minor amendment to take care of a problem of one of my constituents, you take a self-righteous stand and tell me and the committee that the amendment is inequitable and discriminatory. Is that any way to treat your real friends on the committee?" Faced with such a protest, a treasury policy official with a major program hanging in the balance before the committee may well look the other way when a special provision comes up for discussion. Once again a dilemma is raised by the fact that to the congressman the Treasury appears as one protagonist before the committee rather than as a representative of taxpayers in general.

But all this really takes us to the question why the Treasury, representing the executive branch, stands in the open before the Congress virtually alone as the champion of tax fairness. The main reason is obvious. When the issue is a special provision for one group as against the taxpaying public as a whole, what pressure group is there to speak for the public? Other legislation—labor laws, natural-gas prices, farm legislation—brings forth strong and opposing pressure groups. But what pressure group fights against capital-gain treatment for employee stock options? Which group sees itself harmed by a "Mayer amendment"? When the tax issues are at a major political level, as are tax rates or personal exemptions, then pressure groups, labor organizations, the Chamber of Commerce, the National Association of Manufacturers, and the others, become concerned. But when the tax issues are technical, the pressure groups act only as proponents and not as opponents. Since most special provisions benefit the wealthier taxpayers, labor should certainly take a more direct interest. But labor is largely uninformed in these matters, and its presentation stereotyped and unskilled. Moreover, some special provisions are to its own benefit, such as the exclusion of fringe benefits. In sum, there are no private pressure groups actively defending the integrity of the tax structure.

As a consequence, the congressman does not see a dispute over a special provision as one between a particular group in the community and the rest of the taxpaying public. He sees it only as a contest between a private group and a government department. He begins to think of the government department as representing only itself and as having no identification with the public and with taxpayers in general. Far too often this picture passes swiftly into that of a hard-pressed, struggling group of citizens engaged in worthy endeavors only to be opposed by an unsympathetic bureaucracy. When this image appears, victory for the special tax provision is inevitable.

(6) *The Congressional Tax Staff.*—The description of the Treasury as the principal and often the sole defender of tax fairness calls for a consideration of the role of the congressional tax staff. Most of the congressional tax technicals are members of the staff of the Joint Committee on Internal Revenue Taxation and as such serve both the House Ways and Means Committee and the Senate Finance Committee. There are a few technicians attached to the separate committees, and the clerks of the committees can play a very important role if they are personally so inclined. But institutionally the chief guidance given to Congress by its own employees comes from this joint committee staff.

The members of this staff work closely with the treasury tax technicians. Their work on the details of proposals and drafts is highly important, but the task of policy formulation and policy guidance to the congressmen appears to be reserved exclusively to the chief of that staff. His role is a difficult and unenviable one. Many congressmen pass along to him the tax proposals that they are constantly receiving from their constituents. Undoubtedly, the Chief of Staff discretely but effectively blocks many of these proposals from proceeding further. But he also, whatever his inclinations may be, cannot in his situation always say "no." Perhaps inevitably on the crucial issues his role tends to be that of the advocate of the congressman advancing a particular proposal on behalf of a special group. The special-interest groups cannot appear in the executive sessions of the committees, and the congressman sympathetic to their point of view is not technically equipped to present their case; he tends to look to the Chief of Staff to assume that task. Further, he looks to the Chief of Staff to formulate the technical compromises which will resolve the dispute between the special-interest group and the Treasury. The Chief of Staff must therefore work closely with the congressmen and be "brilliantly sensitive to their views."[16] He must necessarily be able to gauge the degree of interest that a congressman may have in a proposal and weigh that in the consideration of the guidance he will give.

Because of these institutional pressure the Chief of Staff is very often the opponent of the Treasury Department before the tax committee. As a result, the difficulties for the average congressman on the tax committees become even greater. The issues get more and more complex as the "experts" disagree, and the congressman can hardly follow the technical exchange. He is quite often content to fall back on the comfortable thought that, since the congressional expert appears to disagree with the treasury experts, there is adequate technical justification for voting either way. Hence the congressman is free to be guided by his own sympathies and instincts. Since generally these sympathies are in favor of the private groups, their proposals obtain his vote.

Unfortunately agreement between the congressional Chief of Staff and the Treasury can sometimes present just as difficult a problem. When the two disagree, at least the congressman who is seeking to discover the real issues may find them exposed at some time through this disagreement of experts. But if the experts agree, the effect is often to foreclose any real committee consideration of the issues. The congressman may be lulled into thinking that no significant issues are involved, and the proposal therefore become law. But if the government experts have erred, or if they have incorrectly gauged the congressional sentiment, special benefits may well result which the congressman would not have sanctioned had he understood what was involved. Many of the proposals in the 1954 House bill appear to have had their origin in this situation. It was largely the response of the bar and accounting groups which saved the Congress—and the government experts—from much unsatisfactory legislation.

The staff arrangements for the tax committees of Congress and the procedures of these committee do not seem well adapted to acquainting the congressmen with the facts of tax life. The recent hearings by the Subcommittee on Tax Policy of the Joint Committee on the Economic Report[17] are in sharp contrast to the usual procedure. At these recent hearings the proponents of special legislation were in effect pitted directly against economists and lawyers, mostly from the universities, who presented their individ-

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ual views and did not represent any pressure group. The congressmen present thus had an opportunity to test the assertions of those favoring special legislation, an opportunity not usually available to the members of the tax committees. The usual hearings of those committees consist of an almost endless parade of witnesses seeking tax benefits for themselves or the groups they represent. There is no effective analysis or rebuttal at the time this special pleading takes place, no questioning by committee counsel to develop a rounded picture of the issue. This is not to say that the committees should hear only the professors and other testifying *pro bono publico*. Certainly the proponents of particular legislation and their supporters from the ranks of business, labor, farming, and the like are entitled to present their case before the legislature. But the committees, in turn, must have procedures adequate to a full exploration of the issues thus presented. Moreover, it is not sufficient that the pros and cons be debated only in executive sessions. The various faults should be developed as far as possible in the public hearings so that the congressman at the outset obtains an appreciation of both sides of the problem and does not leave the hearings with only a hazy impression of a situation sympathetically presented.

It is also debatable whether reliance on a single staff is preferable to the more usual arrangement under which the corresponding Senate and House committees each has its own staff. The Joint Committee on Internal Revenue Taxation is composed of five members from the Senate tax committee and five from the House tax committee, selected by party seniority on the respective committees. This Joint Committee, apart from controlling the staff and its studies and considering refund claims agreed to by the Treasury but required to be presented to the Joint Committee, has little to do.[18] Its members act on substantive tax matters in their capacity as members of the House and Senate committees. Since the Joint Committee is composed of the most senior members of those committees its membership is less responsive to the electoral swings which affect the composition of the tax committees. As a consequence, the scope and course of the staff activities are less affected by changing political considerations. The more traditional system of separate staffs does not involve this situation to the same degree. Further, the absence in the tax field of separate staffs makes it difficult for the tax committee of one chamber to question as closely as is desirable the work of the tax committee of the other. The separate staff work in other legislative areas appears to produce a greater exploration of the issues, more research activity, and a resulting diversity of considerations likely to achieve better legislation.

Some, however, believe that the present unified character of Joint Committee staff work tends better to control the demands for special tax legislation. They feel that separate staffs for the tax committees would simply tend to give the proponents of such legislation more chance of finding support within the Congress. At the very least, however, reconsideration of the present institutional arrangement in the tax field would seem to be warranted, especially since that arrangement is a departure from the usual pattern. Moreover, the idea of a joint committee exercising jurisdiction over administration of the tax law was adopted in 1926 as an *ad hoc* solution to the problem of sidetracking a special investigating committee, the Couzens Committee, whose continuing activities were not viewed favorably by some senior congressman. But all this occurred before the present-day concern with the problems of staffing congressional committees and concentration on administrative supervision by all of the regular committees. Hence the solution of 1926 should be reexamined in the light of subsequent developments in the functioning of congressional committees.

(7) *Lack of Effective Aid From the Tax Bar.*—The lack of any pressure-group allies for the Treasury in its representation of the tax-paying public could have been remedied in part by effective aid from the tax bar. Yet for a good many years the vocal tax bar not only withheld any aid but very often conducted itself as an ally of the special pressure groups. Many a lawyer representing a client seeking a special provision could without much difficulty obtain American Bar Association or local-bar-association endorsement for his proposal. He could then appear before Congress and solemnly exhibit the blessing of the legal profession. In fact, the activity of the Bar Association in this respect became so obvious that it seemingly boomeranged—many a congressman began instinctively to smell mischief when presented with a Bar Association tax proposal or endorsement.

The pendulum is beginning to swing, however, and there is some hope for a more objective attitude on the part of the bar. The Council and the committees of the Tax Section of the American Bar Association are becoming far more appreciative of the public interest.[19] The signs of a growing maturity in the Tax Section on these matters are constantly increasing. But so far this change in attitude has been negative and limited to self-restraint and refusal to join with the proponents of special tax provisions. The change has not carried the Tax Section to the point of appearing affirmatively before Congress to oppose the particular proposals of special-interest groups or to urge the elimination of existing provisions. The Tax Section is becoming less and less a protagonist against the Treasury Department, especially on the more extreme proposals, but it has not yet become a vocal ally of the Treasury in defending the integrity of the tax system before the tax committees. In this respect it appears to be lagging behind the other chief professional group in the tax field, the accountants. Over one-third of the items in the 1955 statement of tax proposals of the American Institute of Accountants are recommendations urging the elimination of tax provisions which it considers to constitute unjustified favoritism for special groups. Yet one can scan report after report from the American Bar Association without finding a single similar recommendation.

This does not mean that the bar will not some day provide objective guidance to the Congress in these matters. In this regard the corporate provisions of the House version of the 1954 Code may be a harbinger. For perhaps the first time we find bar associations going before Congress and pointing out that proposed legislation will open up unjustified tax loopholes. True, the bar, and also the accountants, were not opposing other special groups, but they were seeking to save the Congress from the weaknesses of the particular measures. The bar in this instance deserves much credit for its affirmative guidance on the side of intelligent and fair tax legislation.

There are obvious obstacles to affirmative action by the legal profession in opposing special tax provisions. The Council of the Tax Section of the American Bar Association can speak publicly only on matters which have been approved by votes at annual meetings held in different geographical areas. The absence of a continuous group, with the consequence of shifting viewpoints and the lack of opportunity for sustained and informed consideration over the years, injects considerable instability and fortuitous results into the formal actions of the Tax Section. For, as discussed later, lawyers as a group need considerable discussion and education on these matters before objectivity replaces biases. Further, matters approved by the Tax Section must in turn be approved by the House of Delegates. A body that has regularly approved a proposed constitutional amendment to limit income-tax rates to twenty-five per cent[20] is not likely to understand the problems of special tax provisions. The Council of the Tax Section, whatever its inclinations might be, is thus largely circumscribed by the institutional framework of the American Bar Association. The accountants, on the other hand, are able to speak through their Committee on Federal Taxation of the American Institute of Accountants, a group free from corresponding institutional forces. This may well account for the more aggressive stand against special tax provisions taken by that Committee.

One of the chief problems here is that most tax lawyers have hardly any conception of what is involved in approaching a tax issue from the over-all legislative standpoint. They can readily perceive the adverse effect of the tax laws upon a particular client or transaction. They can then phrase the legislative solution they think necessary to remove the claimed tax obstacle or burden. But they are usually quite incapable of standing off from the problem and their proposed solution and viewing both from the perspective of the general public interest. The difficulty is largely one of lack of experience, not lack of judgment or moral values.

Moreover, policy insights in the tax field are hard to come by. Here a large responsibility rests upon the Treasury. Unless its technical tax staffs are charged with utilizing their experience and information by engaging in research on current tax issues, and unless that research is made public, those interested in tax issues face great difficulties in obtaining the full picture. The government tax experts, both in the Treasury and in the Congress, must also be encouraged to write for the professional journals and to make available the insights they have reached through experience. The papers and hearings presented recently by the Subcommittee on Tax Policy of the Joint Committee on the Economic Report are another excellent illustration of what can be done to increase understanding of tax issues.[21] The professors of tax law and the tax economists in the universities also bear a responsibility here, for they have more freedom from the pressures of time and situation which the bar faces. There is significance in the fact that when the Subcommittee on Tax Policy of the Joint Committee on the Economic Report desired objective analyses of various tax issues it went for the most part to the economists and law professors in the universities.

After all, most members of our tax bar are really opposed to special privileges." They have a respect for the tools of their trade. They know that in the long run the pendulum may swing and that a "loophole" may be closed with a vigor that pushes the cure too far. Even when their legal business requires them to lobby directly for a special tax favor for their clients, I doubt that most lawyers relish the task. The door may open for them, but it may open wider for the next attorney, and who knows where the game will end? Hence a bar association's advocacy of any particular special tax provision is in most cases traceable to the lawyer's sympathy for the welfare of his clients and to a lack of understanding of the basic tax issues involved. If the lawyer is exposed to those issues and if he is not acting simply as an outright advocate for a particular client—that is, as a tax lobbyist on the particular measure—he will generally emerge with the correct answer. Hence the importance of forcing a bar association to see the issues and face up to them.[22]

Tradition also plays a role. Lawyers as a profession are deeply conscious of a duty of

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loyalty to their clients. In his day-to-day relations with other lawyers and with the business world a lawyer does not act contrary to his clients' interests. These attitudes of loyalty and protection are ingrained in the profession; their roots lie deep in the past. Can they be reconciled with speaking out in the public interest against special tax provisions? The problem is of course more acute as the particular provision comes closer to the client's situation. But it must have been presented in one way or another to almost every lawyer who has considered the situation. The same problem arises in a different form when a client asks his lawyer to seek a legislative change in favor of the client. Should the lawyer apply different standards to his client's case in deciding whether to represent him before a tax committee than he does in deciding whether to represent him in litigation? Must a lawyer seeking a legislative change believe the change to be in the public interest? And if he does not, should he still represent his client before the legislature? Or need the lawyer as legislative advocate have no more belief in the fairness of his client's cause than when the matter is in litigation? In short, how does a lawyer adjust the considerations of private interest and public interest in the area of legislation? Clearly, these matters are difficult. Some lawyers manage to find a way through the difficulties and speak openly and positively against special provisions.[23] Others write, or speak in bar-association meetings. Others meet the situation by neither publicly opposing special provisions nor seeking them on behalf of clients; in effect, they turn away from the problems entirely and simply practice law. And others act as legislative advocates, with varying degrees of belief in the proposals they present and with stress on the view that a person is entitled to have his case presented to the legislature just as he is entitled to his day in court.

Given these problems, it is hard to say whether the tax bar can take a position of leadership in this area. Yet here also there is room for development. The work of the American Law Institute in its Tax Project has had a significant effect in educating a number of tax lawyers to the many facets that must be examined in the legislative exploration of a tax proposal.[24] Further, its drafts of proposed solutions to technical tax problems stand as a benchmark against which to measure other proposals. It is significant that much of the criticism of the corporate provisions of the House bill in 1954 was based upon the inadequacy of those provisions when measured against the standards hammered out in the work of the Institute. Moreover, the close co-operation between the Institute and the American Bar Association Tax Section has had an important effect on the content of tax legislation in a number of areas, for it represents a genuine working merger of the criteria of tax fairness and practical sense.[25] The most significant consequence of the Institute's Tax Project is the demonstration that lawyers working under procedures such as those of the Institute can on most technical tax matters develop constructive proposals which balance fairly the interests of the "Government" and the "taxpayer."[26]

(8) Lack of Public Knowledge of Special Tax Provisions.—Perhaps the most significant aspect of the consideration of special tax provisions by the Congress is that it usually takes place without any awareness of these events by the general public. Almost entirely, these matters lie outside of the public's gaze, outside of the voter's knowledge. The special provisions which are enacted lie protected in the mysterious complex statutory jargon of the tax law. This technical curtain is impenetrable to the newspapers and other information media. The public hears of debate over tax reduction or tax increase and it may learn something about the general rate structure. But it seldom learns that the high rates have no applicability to much of the income of certain wealthy groups. Nor does it understand how this special taxpayer or that special group is relieved of a good part of its tax burden. All of these matters are largely fought out behind this technical curtain. Hence the congressman favoring these special provisions has for the most part no accounting to make to the voters for his action. He is thereby much freer to lend a helping hand here and there to a group which has won his sympathy or which is pressing him for results.

It is true that under our governmental system we have given to the Congress, subject to presidential veto, the responsibility of deciding what is "fair" in the federal sphere from our collective standpoint. Its decision is our democratic answer. But all this presupposes that the congressman's decision will be known to the voters and that he will have to account to them for his view. In the tax field this accounting does not exist, so that the presuppositions that on most matters stamp final congressional action as "fair" in a democratic sense are here lacking.

The task of educating and informing the public is formidable. To begin with, the educators are a very limited group. Most of them are in the executive branch, and hence perhaps the prime responsibility should fall on them. The treasury officials and technicians, as stated earlier, should be charged with continued research on these issues and, more important, with making public their observations. The Treasury Department has published—in the 1940's especially—many useful research papers. But in recent years that department has shown little disposition to inform the public about tax problems or to engage in continuous and far-ranging research inquiries. Some of the prospective educators are in the universities. But academic knowledge and learned writing are not the keys to public education of this nature—more writing at the public-information level is clearly needed. Beyond this there is the matter of leadership and the stamp of importance. Here again the major responsibility should rest with the executive branch. A vigorous program directed to meeting these problems, led in public by the President or the Secretary of the Treasury, with whatever aid can be obtained from the Congress, is perhaps the only effective answer. But one does not yet see this on the horizon.

(9) The Relationship of Special Tax Provisions to Private-Relief Bills.—Some of these special provisions represent simply private-relief claims for the particular individual benefited. While phrased as amendments to the tax law, they are only money claims against the Government based on the equities asserted to exist.[27] Thus, it is said of a senator skilled in congressional ways that he would ask the legislative draftsman preparing the draft of a particular tax provision to make the amendment as general in language and as specific in application as was possible. The tax committees and the Treasury have not solved the problem of how to handle these special bills. Curiously enough, some tax situations do come through the judiciary committees as private-relief bills along with other private-relief bills involving claims against the Government. These bills may involve, for example, a removal of the barrier of the statute of limitations in cases thought equitable, or the recovery of funds spent for revenue stamps lost in some fashion.[28] Here they are subject to the criteria developed over the decades by those committees in the handling of private claims bills.[29] The criteria are reasonably strict, and few of the bills pass the Congress. Of those that do succeed, a number are vetoed, and a veto is customarily regarded as a final disposition of the bill.

Many situations come before the tax committees that are quite comparable, in that the tax proposal is equivalent to a money claim against the Government, equal to the tax to be saved, sought for a specific taxpayer on equitable grounds. This is especially true in the case of proposals of a retroactive character.[30] In the tax committees these special proposals tend to take on the coloration of an amendment to the tax code of the same character as all the various substantive tax matters before these committees. In essence, all amendments to the tax laws that private groups push on their own behalf are designed to lower taxes for the proponents and thereby relieve them from a tax burden to which they are subject. The special proposals thus become simply one more amendment in the long list of changes to be considered. The proponents of these special proposals are thereby able to cloak the fact that they are presenting private-relief claims against the Government. This is especially so when the proposal is considered as merely one more item in a general revenue bill. Here it is also protected from the threat—and fate—of a presidential veto. Even when the proposal is considered as a separate bill, the fact that it is merely one of the bills before a tax committee that is considering a great many substantive bills involving amendments to the tax code generally produces the same result. The committee will tend to focus on the proposal as curing a substantive defect in the law and lose sight of the fact that the special proposal is essentially a private-relief bill.

The tax laws are not perfect and cannot be. They will affect some taxpayers more seriously than others, and hardships and inequities will certainly occur. But every hardship and every equity cannot be corrected; and this is even clearer when the correction must be retroactive. Some standards must be evolved against which a claim for relief may be judged, or chaos will result. Tax lobbying will grow by leaps and bounds—it is already doing that. But what standards may be formulated, what procedures should be adopted, what institutional changes may be necessary—these are still unstudied topics.

There is another curious but highly important aspect of casting private-relief claims as amendments to the tax code. In the case of most other private-relief bills involving claims against the Government, the Congress is concerned with the amount of the fee paid to the attorney representing the claimant and the relationship of that fee to the services performed by the attorney. Often the bill when passed will carry a proviso that no part of the amount awarded be paid to the attorney for his services, or that the amount so paid be limited to 5 per cent or 10 per cent of the sum awarded.[31] But there is no such concern when the tax committees are passing on special tax provisions. The legal fees involved in legislation of this character can be quite large, especially when the special provision operates to open the way for a successful refund claim. Yet the services performed may be far less demanding that would be required if the same fee were earned in other phases of legal work. This would seem to be a matter requiring exploration along with those suggested earlier.

At present, under the Legislative Reorganization Act, the House and Senate Judiciary Committees have jurisdiction over all "measures relating to claims against the United States." It may not be appropriate to have special tax measures presented to these committees, since these measures should be coordinated with the rest of the tax code. But it would seem proper for the Congress to require that all retroactive tax proposals limited in application to one person or to a small group be presented as private-relief bills to be considered by the tax committees. The bills would name the individuals concerned and specify the amounts involved. The re-

Footnotes at end of article.

ports on the bills would state the equities present and the reason for granting relief, if that is the action urged. Each matter would be handled as a separate bill, subject to presidential veto. The amounts granted need not be the complete tax to be saved by retroactive change, since the equities may point to a lower figure. The tax committees would have to develop procedures and criteria for handling these measures—presumably they would go to special subcommittees. Rigorous standards would have to be evolved lest the committees be engulfed. It may be that naming the particular individual involved will result in congressional action on some measures being influenced one way or the other not so much by the merits as by an identification with the particular individual. Hence, it might be thought that these special bills should be anonymous as far as possible. Yet the beneficiaries of other relief bills are identified. Anonymity would only provode intense curiosity on the part of the press and others, and probably could not be preserved. Thus, despite the disadvantage indicated, identification of the beneficiary would seem proper.

If the above procedure were adopted, it may well be that it could be extended to those special provisions for a particular person or a limited group which are prospective in operation. After all, a proposal that for the future a cousin in a mental institution who was formerly in the taxpayer's household,[32] or a child adopted in the Philippines by an army officer,[33] be classified as a dependent, is really a petition for a private-relief bill. Nor is there any reason why the "Louis B. Mayer amendment" should not have been handled as a "bill for the relief of Louis B. Mayer" and the amount of the relief stated in a precise dollar figure. If the particular proposal presented is only an example of a general problem, it should be handled as such and relief denied if the general problem is not to be solved, unless the equities for special treatment are overwhelming. If it is an isolated situation, its equities could be judged in that light. If special relief were granted, and the consequent publicity indicated that others were similarly situated, then the relief could be extended. But the particular claim would be highlighted for what it is—an appeal to the generosity of the Congress to be exercised in the particular situation. In time, experience may indicate that certain of these matters may be handled by the Treasury Department, perhaps with the assistance of a special board of advisors.[34] The essential task is to separate special situations from the broader substantive problems that represent the basic work of the tax committees, and thereby to judge them on their particular merits. Also, and equally as important, treatment as a private bill would permit full public understanding of the particular case and an awareness of the relief involved. The technical curtain referred to earlier would thus be lifted to a considerable extent from legislative consideration of special provisions.

III. CONCLUSION

The consideration of any legislation is a complex matter and tax measures are no exception. But the institutional factors in the tax legislative process do differ from those in other legislative areas, and the differences have affected the end product. The growing concern with the integrity of our tax system may well force a substantive re-examination of many of the special provisions now in the law. This concern should also extend to the tax legislative process itself. The situation is a serious one, and the solutions are far from clear.

It is suggested that the executive branch take affirmative action to attack the problem through a strong program led by the President or the Secretary of the Treasury designed to focus public consideration on special provisions and their interaction with the rate structure. The Treasury's tax officials and technicians should engage in intensive research on these matters and the results of their studies should be made public. In the Congress, consideration should be given to changes in the methods of obtaining information on tax problems, to improvements in the conduct of hearings, and to a re-examination of the staff arrangements. Procedures should be adopted under which proposals for amendment of the tax laws limited in application to a single person or a small group, especially when retroactive in nature, would be treated as private-relief claims. These claims should be considered by the tax committees under special procedures similar to those applicable to private-relief bills generally. In respect to the bar, both bar associations and lawyers generally should consider how, consistently with the traditions of the profession regarding the protection of a client's interests, the wisdom and experience of the tax bar can be made available in the public interest to aid the Congress by objective guidance. The sum total of these suggestions is that the Congress, the Treasury Department, and the tax bar equally bear a responsibility to reappraise their roles and activities in the tax legislative process.

FOOTNOTES

†This article grew out of a talk delivered before the Round Table on Federal Taxation at the Chicago meeting of the Association of American Law Schools, December 28, 1955. I am indebted in thinking about these matters to the other two panelists, Charles W. Davis of the Illinois Bar, formerly Chief Counsel, Bureau of Internal Revenue, and Clerk, House Committee on Ways and Means, and William M. Horne, Jr. of the Massachusetts Bar, formerly Staff Member congressional Joint Committee on Internal Revenue Taxation, for the views of this general topic which they expressed in their panel talks.

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[1] For a recent discussion, see DeWind, *Law and the Future: Federal Taxation*, 51 Nw. U.L. Rev. 227 (1956).

[2] See, *e.g.*, Andrews, *Let's Get Rid of the Income Tax!*, The American Weekly, April 22, 1956, p. 6, reprinted in 102 Cong. Rec. A3331 (daily ed. April 24, 1956); *Why the Income Tax Is Bad*, U.S. News & World Report, May 25, 1956, p. 62 (interview with T. Coleman Andrews); *cf.* Hawley, *Our Tax Laws Make Us Dishonest*, 27 Pa. B.A.Q. 230 (1956).

[3] For some of the recent literature, see Harriss, *Erosion of the Federal Estate and Gift Tax Bases*, in National Tax Association, Proceedings of the Forty-Eighth Annual Conference on Taxation 350 (1955); Hellmuth, *Erosion of the Federal Corporation Income Tax Base*, in *id.* at 315; Pechman, *The Individual Income Tax Base*, in *id.* at 304; Atkeson, *The Economic Cost of Administering Special Tax Provisions*, in Joint Committee on the Economic Report, Federal Tax Policy for Economic Growth and Stability 276 (1955); Blum, *The Effects of Special Provisions in the Income Tax on Taxpayer Morale*, in *id.* at 251; Eisenstein, *The Rise and Decline of the Estate Tax*, in *id.* at 819; Groves, *Special Tax Provisions and the Economy*, in *id.* at 286; Paul, *Erosion of the Tax Base and Rate Structure*, in *id.* at 297; Cary, *Pressure Groups and the Revenue Code: A Requiem in Honor of the Departing Uniformity of the Tax Laws*, 68 Harv. L. Rev. 745 (1955); DeWind, *supra* note 1; Surrey, *"Do Income-Tax Exemptions Make Sense?,"* Colliers, March 30, 1956, p. 26, reprinted in 202 Cong. Rec. A3053 (daily ed. April 16, 1956); Bulletin of the Tax Section, American Bar Association, Oct. 1956, p. 3 (remarks of Congressman Wilbur D. Mills); *"Keep the Income Tax But Make It Fair,"* U.S. News & World Report, July 27, 1956, p. 68 (interview with Congressman Wilbur D. Mills); 102 Cong. Rec. A3696 (daily ed. May 8, 1956) (remarks of Congressman Daniel A. Reed).

[4] Int. Rev. Code of 1954. § 1240. Sections of the 1954 Code will hereinafter be cited only by section number. The history of § 1240 is related in Cary, *supra* note 3 at 747–48. Under this provision amounts received from the assignment or release by an employee of over twenty-years employment of his rights to receive, after termination of his employment and for a period of not less than five years, a percentage of future profits or receipts of his employer are taxed at capital-gains rates if the employee's contract providing for those rights had been in effect at least twelve years. Clearly the blueprint for compliance with this section is quite detailed. It is generally assumed that the amendment at the time covered only two persons, Louis B. Mayer, retired vice-presiednt of Loew's, Inc., and one other executive in the company, and that the amendment saved Mayer about $2,000,000 in taxes. Mayer, as a vice-president, had been in charge of Metro-Goldwyn-Mayer motion-picture studio for many years. He had received a compensation contract under which he was to receive 10% of the net proceeds from every picture made at that studio between April 7, 1924, and the day he left the company. On his retirement in 1951, Mayer released his rights under the contract in return for, apparently, $2,750,000. The 1954 Code, while continuing the provision, which had been adopted in 1951, underscored its special character by restricting its application to contracts entered into prior to the 1954 Code.

For other highly personalized provisions, see Cary, *supra* note 3, at 749–54. See also the following recent provisions:

(a) Section 2055(b)(2), added by Pub. L. No. 1011, 84th Cong., 2d Sess. (Aug. 6, 1956), treats as an exempt transfer to charity by a decedent property later transferred to charity by the spouse of the decedent under a power of appointment given to her by the decedent and exercisable at her death, subject to such conditions as that the spouse must be more than eighty years old at the decedent's death and must have executed an affidavit under certain conditions one year after his death proclaiming her intention to exercise the power in favor of charity. The provision was enacted August 6, 1956, but made retroactive to August 16, 1954.

(b) Section 106 of the Internal Revenue Code of 1939, as amended, 70 Stat. 404 (1956), applies a 30% income-tax rate to amounts received under a claim against the United States arising under a contract for the installation of facilities for any branch of the armed forces, remaining unpaid for more than five years from the date of the claim, and paid prior to January 1, 1950. The conference report stated that "it is the understanding of all the conferees that the action taken with respect to this amendment is not to be considered a precedent for future legislative action." H.R. Rep. No. 2253, 84th Cong., 2d Sess. 5 (1956). Apparently the provision was designed solely to cover the taxpayer involved in Sanders v. Commissioner, 225 F.2d 629 (10th Cir. 1955), *cert. denied*, 350 U.S. 967 (1936), since the facts of the case fit precisely under the provision.

(c) Section 1342, added by 69 Stat. 717 (1955), provides for retroactive exclusion of damages received under a court decision in a patent-infringement suit and later repaid because of the subsequent reversal of the court decision on the ground that it was induced by fraud or undue influence. Apparently, this provision grew out of the litigation reported in Universal Oil Products Co. v. Root Refining Co., 328 U.S. 575 (1946).

(d) Section 152(a)(10), relating to the deduction for "dependents," covers a cousin receiving institutional care for physical or mental disability if prior to being institutionalized the cousin was a member of the same household as the taxpayer. Section 152

(b)(3) excepts from the exclusion of noncitizens a child born to or adopted by a member of the armed forces in the Philippine Islands before January 1, 1956. See Act of Aug. 9, 1955, c. 693, 69 STAT. 625, making this provision retroactive to 1946 and substituting the January 1, 1956, date for the July 5, 1946, date formerly contained in § 152 (b)(3).

(e) Section 24(c) of the Internal Revenue Code of 1939, as amended, 67 STAT. 617 (now § 267(a)) allowed the deduction of an accrued expense if the related payee included the amount in income within two-and-one-half months after the close of the year and applied the change retroactively to 1946. The retroactive aspect, and perhaps the proposal, appear to be a consequence of the litigation in L. R. McKee, 18 T.C. 512 (1952), *rev'd per curiam*, 207 F. 2d 780 (8th Cir. 1953), in which the taxpayer had been unsuccessful in the Tax Court under the previous provisions.

(f) Section 2053(d), added by 70 STAT. 23 (1956), was enacted February 20, 1956, but was made retroactive to cover decedents dying after December 31, 1953. It allows charitable deduction from the gross estate for the amount of state inheritance taxes imposed on a bequest to charity. This provision reportedly was adopted to affect the problem of a particular estate under the interaction of the Pennsylvania tax laws and the federal estate tax.

(g) Section 166(f) treats as a business-bad-debt loss a payment by the guarantor of a noncorporate obligation. The provision reportedly was designed to meet the problem of a Texas father who had made advances to his son's business. This *ad hoc* amendment obviously does not fit with the rest of the provisions respecting losses and bad debts, as is evidenced by the difficulty which it gave the Supreme Court in Putnam v. Commissioner, 352 U.S. 82 (1956). The dissent there labors long to gather an intelligible legislative history from the provision, but fails to realize that the provision has all the earmarks of an *ad hoc* resolution of a particular situation.

(h) Section 1235(d) provides that capital-gain treatment on the sale of a patent shall not apply to a sale between an individual and a related person, but then excepts brothers and sisters. Apparently this was inept phrasing to exclude a sale to a corporation owned by a brother, since the JOINT COMMITTEE ON INTERNAL REVENUE TAXATION, PROPOSED TECHNICAL AMENDMENTS BILL OF 1957, § 28 (CCH Stand. Fed. Tax Rep., Oct. 26, 1956), and the accompanying summary involve an amendment to make it clear that the protection was intended for the brother's corporation. For a statement by a taxpayer's representative questioning the justification for this special treatment for a brother, see *Hearings on Technical Amendments to the Internal Revenue Code Before a Subcommittee of the House Committee on Ways and Means*, 84th Cong., 2d Sess. I (1956).

(i) Section 1361, a complicated provision with many problems unsolved, which permits a proprietorship or partnership to elect corporate tax treatment, apparently received its main impetus and perhaps the only real reason for its existence from the situation of a particular Georgia partnership.

[6] The text statements are based on impressions obtained from a conference to the British tax system held in New York on January 4–5, 1957, under the joint auspices of the Harvard Law School Program in International Taxation, and the American Branch, International Institute of Public Finance. See also Wheat croft, *The Anti-Avoidance Provisions of the Law of Estate Duty in the United Kingdom*, (paper to be published in NAT'L TAX J. (1957)). Professor Carl Shoup, an informed observer of the Japanese tax system, asserts that the same trend is evident in that country.

[7] Spokesmen on this subject in both political parties appear to recognize the need for solving the dilemma. As regards the Democrats, see Stevenson, *The New America, Where is the Money Coming From?*, N.Y. Times, Oct. 29, 1956, p. 22; U.S. News & World Report, July 27, 1956, p. 68 (remarks of Congressman Wilbur D. Mills). As regards the Republicans, see 103 CONG. Rec. 697 (daily ed. Jan. 17, 1957) (statement of Secretary of the Treasury Humphrey); 102 CONG. REC. A3699 (daily ed. May 8, 1956) (remarks of Congressman Daniel A. Reed); *Hearing on H.R. 4090 and H.R. 4091 Before the House Ways and Means Committee*, 85th Cong., 1st Sess. 4, 7–9 (1957) (testimony of Secretary Humphrey).

The dilemma should not be solved solely in the context of the income tax, but must be considered in the light of the entire tax structure. Thus, those who believe that stabilizing the income tax at levels of 50–65% does not leave a sufficient over-all burden on the wealthy would urge a concomitant strengthening of taxes on capital. In other countries this may mean a resort to net-worth taxes restricted to the upper levels and further development of estate taxes. In this country constitutional requirements may restrict the effort to a strengthening of the estate tax. Looking further ahead, there may be experimentation with expenditure taxation for the upper brackets, as contrasted with the current sales taxes that reach all levels but with greater impact at the lower ranges.

[8] For the history of these provisions, see Freeman, *Percentage Depletion for Oil—A Policy Issue*, 30 Ind. L.J. 399 (1955).

[9] These statements are not the result of any intensive examination of the British procedure, but are based on correspondence and discussion with British officials and practitioners.

[10] §§ 402(a)(2), 403(a)(2). These sections were derived from Int. Rev. Code of 1939, § 165(b), added by 56 STAT. 863 (1942).

[11] In a sense the "Mayer amendment," see note 4 *supra*, is traceable to this type of error.

[12] Now § 922. Its legislative history and current application are described in Surrey, *Current Issues in the Taxation of Corporate Foreign Investment*, 56 COLUM. L. REV. 815, 834–38 (1956).

[13] These sections are a good instance of how tax law grows: A lawyer who works years on a case receives a large fee in one year, so that most of the fee goes in taxes in contrast to the result of spreading the fee over the years worked. A sympathetic Congress in 1939 adopts a provision to cover the situation, confined to bunched income from employment. Int. Rev. Code of 1939, § 107, added by 53 STAT. 878 (1939) (now § 1301). An author, said to be Ernest Hemingway, runs into a similar problem with respect to the royalties on a book which has taken a number of years to write, and Congress in 1942 adds a provision to spread back royalties from both artistic works and patents. Int. Rev. Code of 1939, § 107(b), added by 56 STAT. 837 (1942) (now § 1302). Parenthetically, Hemingway's royalties over several years were so large that it was said he could not come within the conditions of the sections. Some Ford Motor Company employees receive a large back-pay award under the National Labor Relations Act, again a bunched-income situation, and Congress in 1944 adopts a throwback provision to meet this situation. Int. Rev. Code of 1939, § 107(d), added by 58 STAT. 39 (1944) (now § 1303). In 1955 Congress adds a limited provision to cover another bunched-income situation, compensatory damages for patent infringement. § 1304, added by 69 STAT. 688 (1955). The American Law Institute has recommended extension of these provisions to cover back interest, back dividends on cumulative preferred stock, back rent, and damages for loss of profits and earnings. ALI FED. INCOME TAX STAT. § X350(c) (Feb. 1954 Draft). And, of course, lying ahead are the suggestions from various sources for an over-all averaging system.

[14] This provision appeared in its original form as Int. Rev. Code of 1939, § 115(g)(3), added by 64 STAT. 932 (1950). It was apparently adopted to meet the problem of the *Boston Post* and to make unnecessary the sale of that paper by an estate in order to meet estate taxes. Interestingly enough, the paper was nevertheless sold not long afterward. Section 472, relating to the last-in-first-out inventory method, as another example of a general solution replacing a special provision. See Int. Rev. Code of 1939, § 22(d), 53 STAT. 11, which originated in a limited form in the Revenue Act of 1938, § 22(d), 52 STAT. 459.

[15] Added by 69 STAT. 717 (1955). As originally introduced, this provision had a broad and sensible application to the transactional situations involving the inclusion of an income item and its later repayment. The provision was, however, confined to the particular case treated in § 1342 at the Treasury's request, since it had not yet studied the basic problems. Section 1304, added by 69 STAT. 688 (1955), relating to a throwback for compensatory damages recovered in a patent-infringement suit, is another illustration of a provision specially limited at the Treasury's request.

[16] Darrell, *Internal Revenue Code of 1964—A Striking Example of the Legislative Process in Action*, in U. of So. CALIF. SCHOOL OF LAW, 1955 TAX INST. I, 6.

[17] *Hearings Before the Subcommittee on Tax Policy of the Joint Committee on the Economic Report*, 84th Cong., 1st Sess. 1, 6 (1955). See also JOINT COMMITTEE ON THE ECONOMIC REPORT, FEDERAL TAX POLICY FOR ECONOMIC GROWTH AND STABILITY (1955), the accompanying volume of papers on which these hearings were based.

[18] For its organization and powers, see § 6405; §§ 8001–05; §§ 8021–23, as amended, 69 STAT. 448 (1955).

[19] The Federal Income Tax Committee of the Association of the Bar of the City of New York has also made helpful analyses of technical matters.

[20] See *Hearing on S.J. Res. 23 Before a Subcommittee of the Senate Committee on the Judiciary*, 84th Con., 2d Sess. (1956). See also Cary, *The Income Tax Amendment: A Strait Jacket for Sound Fiscal Policy*, 39 A.B.A.J. 885 (1953); Dresser, *The Case for the Income Tax Amendment: A Reply to Dean Griswold*, 39 A.B.A.J. 25 (1953); Griswold, *Can We Limit Taxes to 25 Per Cent*, Atlantic Monthly, Aug. 1952, p. 76, reprinted in Mass L.Q., 1952, p. 50.

[21] See JOINT COMMITTEE ON THE ECONOMIC REPORT, *op. cit. supra* note 17.

[22] The task here, however, lies mainly with the members of the tax bar themselves rather than the law school professors. I am sufficiently realistic to understand that an academic tax professor talking "equity" and "loophole" and "special privilege" rarely if ever sways a bar association meeting. "He doesn't have any clients!" But nothing is more effective in bringing up short the advocates of a special proposal than to hear other lawyers, whose fees are as high as theirs and whom they otherwise respect, point out that the proposal is an unwarranted special privilege. The arguments used may be no better than those of the professor, but they sound infinitely more persuasive when presented by a lawyer with clients—and this is proper and understandable.

[23] The late Randolph Paul was a shining example. But his outstanding position in this respect so approached uniqueness that one is given pause in thinking about the problem. See his reflections on the problem in PAUL, TAXATION IN THE UNITED STATES 771–74 (1954).

[24] See Darrell, *supra* note 16, at 17–25; Sur-

rey, *The Income Tax Project of the American Law Institute*, 31 TAXES 959 (1953). The last article also appears in N.Y.U. 11TH INST. ON FED. TAX. 1049 (1953).

[25] See Darrell, *supra* note 16, at 17, 27.

[26] Recently the Subcommittee on Internal Revenue Taxation of the House Ways and Means Committee has sought the aid of the tax bar through special advisory committees selected by it to present proposals for changes in various parts of the Code. While there are facets of the present situation which have led to this *ad hoc* solution, it is doubtful whether it represents an appropriate line of growth. At the very least, reliance on such advisory committees calls for sustained and informed government technical activity so that short-run solutions do not distort long-run developments. Further, there are many fortuitous elements in the process, as the selection of the particular members of the advisory committees, the time available, and the like. The procedures of the American Law Institute, and in some respects those of the Tax Section of the American Bar Association, have the merit of a wider participation in and testing of new changes as they pass through the various stages of their formulation.

[27] See, for example, the discussion in 102 CONG. REC. 13395 (daily ed. July 26, 1956), of an amendment designed to relieve a particular individual in Vermont from an asserted tax hardship growing out of the conjunction of the severity of Vermont winters and the vagaries of § 270, the hobby-loss provision. The senator pressing the amendment stated that while it was basically designed for the relief of a particular individual, he had originally hoped to generalize the language but the Treasury had pointed out defects in the generalization. The amendment did not prevail, the chairman of the Senate Finance Committee solemnly stating that "it would establish a very dangerous precedent, and we would be attempting to pass a general law for one specific purpose." The day before, the chairman had reported out the bill allowing an estate-tax deduction in a situation involving an eighty-year-old widow who had taken certain action specified in the bill. See note 4, para. (a), *supra*.

[28] The following private-relief bills involving tax situations were enacted by the 84th Congress.

(a) Priv. L. No. 206, 84th Cong., 1st Sess. (July 14, 1955). This act reimbursed the taxpayer for the $900 he lost when his beer-tax stamps were stolen or lost. See H.R. REP. No. 259, 84th Cong., 1st Sess. (1955); S. REP No. 484, 84th Cong., 1st Sess. (1955).

(b) Priv. L. No. 661, 84th Cong. 2d Sess. (May 19, 1956). This act granted $1620.09 to a taxpayer who had paid a tax on alcoholic products which were exported and for which drawback claims were rejected because the products were not originally bottled for export. The taxpayer had been ignorant of the requirement and the government representative who supervised the packaging had acquiesced in the manner in which it was done. See H.R. REP. No. 1715, 84th Cong., 2d Sess. (1956); S. REP. No 1948, 84th Cong, 2d Sess. (1956).

(c) Priv. L. No. 663, 84th Cong., 2d Sess. (May 22, 1956). This act permitted the taxpayer to file an election to claim the benefit of Int. Rev. Code of 1939, § 112(b)(7), as amended, 67 STAT. 615 (1953) (now § 333), which he had originally filed one day late due to inadvertence arising from the pressure of taking office as Mayor of Houston. See H.R. REP. No. 263, 84th Cong., 2d Sess. (1956); S. REP. No. 1957, 84th Cong., 2d Sess. (1956).

(d) Priv. L. No. 728, 84th Cong., 2d Sess. (June 29, 1956). This act granted $6896.14 plus interest to the estate of a deceased member of the armed services after the estate had sued for that amount under the forgiveness provisions of Int. Rev. Code of 1939, § 421, added by 57 STAT. 149 (1942), repealed by 64 STAT. 947 (1950), and had lost, Allen v. Bickerstaff, 200 F.2d 181 (5th Cir. 1952). The Supreme Court had overruled that decision in a subsequent case, Marcelle v. Estate of Lupia, 348 U.S. 956 (1955), *affirming* 214 F.2d 942 (2d Cir. 1954). The Treasury stressed that its favorable report on this private bill should not be regarded as precedent for a policy of changing the result of decided cases by legislation. See H.R. REP. No. 1914, 84th Cong., 2d Sess. (1956); S. REP. No. 2202, 84th Cong., 2d Sess. (1956).

(e) Priv. L. No. 764, 84th Cong., 2d Sess. (July 11, 1956). This act permitted the taxpayers to file refund claims involving an amount in the vicinity of $380,000, although the period of limitations had expired and an agreement with the Government had been executed. The committees appeared to be convinced that the taxes and penalties involved had been erroneously paid. See H.R. REP. No. 2127, 84th *Cong.*, 2d Sess. (1956); S. REP. No. 2277, 84th Cong., 2d Sess. (1956).

(f) Priv. L. No. 800, 84th Cong., 2d Sess. (July 24, 1956). This act granted to an estate a refund of $1793.10 representing a credit for death taxes paid to the state, although the period within which a claim for such a refund must be filed had elapsed. The executor had relied on an erroneous statement in a letter from the district director as to the permissible filing period. See H.R. REP. No. 2224, 84th Cong., 2d Sess. (1956); S. REP. No. 2499, 84th Cong., 2d Sess. (1956).

The Treasury Department had objected to the bills involved in Private Laws 663 and 764, but not to the other bills; all bills were approved by the President.

[29] See Gellhorn & Lauer, *Congressional Settlement of Tort Claims Aagainst the United States*, 55 COLUM. L. REV. 1 (1955); Note, *Private Bills and the Immigration Law*, 69 HARV. L. REV. 1083 (1956). See also HOUSE COMMITTEE ON THE JUDICIARY, 85TH CONG., RULES OF SUBCOMMITTEE NO. 2, WHICH HAS JURISDICTION OVER CLAIMS (1957).

[30] See, *e.g.*, Code sections cited note 4, paras (a)–(f), *supra*. See also Pub. L. No. 901, 84th Cong., 2d Sess (Aug. 1, 1956); Pub. L. No. 414, 84th Cong., ad Sess. § 4 (Feb. 20, 1956).

One recent special provision, Act of Aug. 12, 1955, c. 878, 69 STAT. A166, took in part the formal course of a private-relief bill but proceeded in a somewhat unusual fashion. On July 30, 1955, Congressman Curtis of Missouri introduced a private bill for the relief of the Cannon Foundation, which had been established by Congressman Cannon of Missouri. H.R. 7746, 84th Cong., 1st Sess. (1955). That foundation was established in 1950 as a charitable foundation, but its charter, though apparently not its activities ran afoul of § 503(c). The bill, as passed, made this provision inapplicable for 1950–56, and apparently charter amendment in 1955 took care of future years. The bill had originally been referred to the Ways and Means Committee, but on August 1, 1955, it was referred to the House Judiciary Committee, and then reported and passed that day. It was reported by the Senate Finance Committee the same day, S. REP. No. 1283, 84th Cong., 1st Sess. (1955) (which does not explain the particular problem involved—in fact it is not explained in any of the public documents), and it then passed the Senate on August 2, 1955, with an amendment concurred in that same day by the House. The Congress adjourned on August 2, 1955.

[31] See HOUSE COMMITTEE ON THE JUDICIARY, 85TH CONG., *op. cit. supra* note 29, rule 16; NEWMAN & SURREY, LEGISLATION: CASES AND MATERIALS 156 (1955). For a summary and discussion of statutory and administrative restrictions on practitioners' fees, see Committee on Administrative Practitioners, Administrative law Section, A.B.A., *Report*, 8 AD. L. BULL. 137 (1956).

[32] See § 152(b)(3).

[33] See § 152(b)(3), as amended, 60 STAT. 626 (1955).

[34] The British have a system of "extra-statutory concessions," adopted and made public by the Board of Inland Revenue, which represent in effect administrative relief granted when the statutory law is working in an unintended way with harsh effect. There are between fifty and one hundred of these concessions outstanding; they are generally used when the matter is minor and often when it also would be difficult to draft a complete legislative solution. There are also unpublished "office practices" under which the rigor of the law is not pushed too far. In effect, the more important of these office practices are published as extra-statutory concessions.

TAX CREDIT FOR POLITICAL CONTRIBUTIONS

AMENDMENT NO. 409

Mr. KENNEDY. Mr. President, on behalf of myself and the distinguished Senator from Kansas (Mr. PEARSON), I offer for the consideration of Members of the Senate an amendment to H.R. 13270, the Tax Reform Act of 1969. The amendment proposes a tax credit for political contributions. In the past, Senator PEARSON has played a leading role in our bipartisan efforts to reform the election process, and I am pleased that he has consented to join me in offering this amendment.

Mr. President, the primary purpose of this amendment is to provide a strong new incentive for both of our major political parties to broaden their base of political support. In recent years, we have become well aware of the serious problems that are caused by excessive reliance by candidates for public office or large contributors. By encouraging candidates, political committees, and political parties to seek support from small contributors across the Nation, we will be able to take a major step toward avoiding even the appearance of impropriety or undue influence that flows from the existence of large campaign contributions. By doing so, we will encourage broader participation in the political process, and we will restore new confidence to our democratic system.

The amendment I have proposed is essentially identical to the tax credit proposal favorably and unanimously reported by the Committee on Finance in November 1967, at the conclusion of comprehensive hearings on a variety of proposals to reform the financing of political campaigns. It is also very similar to legislation recently proposed by Senator PEARSON.

The bill reported by the Finance Committee in 1967 contained certain other provisions—including a controversial provision for direct public financing of campaigns—which would be inappropriate for consideration by the Senate at this time as part of the pending tax reform bill. The tax credit proposal, however, is entirely appropriate for consideration as part of this bill.

In brief, the amendment offered by Senator PEARSON and myself would provide a tax credit for one-half of a taxpayers' political contributions, up to a maximum credit of $25. It is a broad-based amendment. Contributions qualifying for the credit could be made to candidates for either Federal, State, or local office, to political committees supporting particular candidates, or to na-

tional political parties. In addition, contributions could be made in connection with either general, special, or primary elections.

According to the revenue estimates made by the Committee on Finance in 1967, the revenue loss produced by the proposal would be modest—$50 to $60 million in presidential election years, and probably substantially less in other election years.

Mr. President, we are thoroughly familiar with the difficult problem of escalating campaign costs. I believe that the amendment I have proposed will provide a significant and effective step to alleviate the problem. I intend to call up the amendment for consideration at the appropriate time, and I ask unanimous consent that the text of the amendment be printed in the RECORD at this point.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD in accordance with the Senator's request.

The amendment (No. 409) is as follows:

At the proper place insert the following new section:

"SEC. ——. INCOME TAX CREDIT FOR POLITICAL CONTRIBUTIONS

"(a) Allowance of Credit.—Subpart A of part IV of subchapter A (relating to credits allowable) is amended by renumbering section 41 as 42, and by inserting after section 40 (as added by section —— of this Act) the following new section:

"'SEC. 41. POLITICAL CONTRIBUTIONS.

"'(a) GENERAL RULE.—In the case of an individual, there shall be allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to one-half of so much of the political contributions as does not exceed $50, payment of which is made by the taxpayer within the taxable year.'"

"'(b) LIMITATIONS—

"'(1) MARRIED INDIVIDUALS.—In the case of a joint return of a husband and wife under section 6013, the credit allowed by subsection (a) shall not exceed $25. In the case of a separate return of a married individual, the credit allowed by subsection (a) shall not exceed $12.50.

"'(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 33 (relating to foreign tax credit), section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), and section 38 (relating to investment in certain depreciable property).

"'(3) VERIFICATION.—The credit allowed by subsection (a) shall be allowed, with respect to any political contribution, only if such political contribution is verified in such manner as the Secretary or his delegate shall prescribe by regulations.

"'(c) DEFINITIONS.—For purposes of this section—

"'(1) POLITICAL CONTRIBUTION.—The term "political contribution" means a contribution or gift of money to—

"'(A) an individual who is a candidate for nomination or election to any Federal, State, or local elective public office in any primary, general, or special election, or in any National, State, or local convention or caucus of a political party, for use by such individual to further his candidacy for nomination or election to such office;

"'(B) any committee, association, or organization (whether or not incorporated) organized and operated exclusively for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals who are candidates for nomination or election to any Federal, State, or local elective public office, for use by such committee, association, or organization to further the candidacy of such individual or individuals for nomination or election to such office;

"'(C) the National committee of a National political party;

"'(D) the State committee of a National political party as designated by the National committee of such party; or

"'(E) a local committee of a National political party as designated by the State committee of such party designated under subparagraph (D).

"'(2) CANDIDATE.—The term "candidate" means, with respect to any Federal, State, or local elective public office, an individual who—

"'(A) has publicly announced that he is a candidate for nomination or election to such office; and

"'(B) meets the qualifications prescribed by law to hold such office.

"'(3) NATIONAL POLITICAL PARTY.—The term "national political party" means—

"'(A) in the case of contributions made during a taxable year of the taxpayer in which the electors of President and Vice President are chosen, a political party presenting candidates or electors for such offices on the official election ballot of 10 or more States, or

"'(B) in the case of contributions made during any other taxable year of the taxpayer, a political party which met the qualifications described in subparagraph (A) in the last preceding election of a President and Vice President.

"'(4) STATE AND LOCAL.—The term "State" means the various States and the District of Columbia; and the term "local" means a political subdivision or part thereof, or two or more political subdivisions or parts thereof, of a State.

"'(d) CROSS REFERENCES.—

"'For disallowance of credits to estates and trusts, see section 642(a)(3).'

"(b) CLERICAL AND TECHNICAL AMENDMENTS.—

"(1) The table of sections for such subpart A is amended by striking out the last item and inserting in lieu thereof

"'Sec. 41. Political contributions.

"'Sec. 42. Overpayment of tax.'.

"(2) Section 642(a) (relating to credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"'(3) POLITICAL CONTRIBUTIONS.—An estate or trust shall not be allowed the credit against tax for political contributions provided by section 41.'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1969, but only with respect to political contributions payment of which is made after such date."

ADJOURNMENT UNTIL 10. A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate adjourn until 10 a.m. tomorrow.

The motion was agreed to; and (at 7 o'clock and 41 minutes) the Senate adjourned until tomorrow, Tuesday, November 9, 1969, at 10 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate December 8, 1969:

IN THE ARMY

The following-named person for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be lieutenant colonel

Harris, Arthur C., Jr., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be major

Bates, William R., [redacted].
Beltran, Gilbert, [redacted].
Boyd, Eugene T., [redacted].
Champlin, Donald A., [redacted].
Josh, Joseph A., [redacted].
Madole, James E., [redacted].
Marelli, Lee R., [redacted].
Stanton, Harold M., [redacted].

To be captain

Atseff, Vladimir, [redacted].
Bessler, Robert M., [redacted].
Bratisax, Roland J., [redacted].
Childers, Charles K., [redacted].
Crouch, James E., [redacted].
Culley, Harold E., Jr., [redacted].
Gilbert, Johnnie R., [redacted].
Haselgrove, Leighton, [redacted].
Kraft, Reinhold J., [redacted].
Laslo, George S., [redacted].
Lewis, Gerald H., [redacted].
Prados, Alfred B., [redacted].
Roscelli, Joseph J., [redacted].
Russell, Nancy A., [redacted].
Shuler, Brigham S., [redacted].
Simpson, Samuel M., [redacted].
Smith, Floyd D., [redacted].
Stockton, Patrick D., [redacted].
Strong, William R., [redacted].
Townsend, Kenneth L., [redacted].
Ullman, Cornell L., [redacted].
Wagner, Jerry T., [redacted].
Wilson, James C., [redacted].

To be first lieutenant

Ackels, Alden D., [redacted].
Babich, James M., [redacted].
Beaty, James H., [redacted].
Burrow, Troy E., [redacted].
Carlson, Jack S., [redacted].
Carney, Marilyn M., [redacted].
Catalano, Thomas S., [redacted].
Clark, Philip E., Jr., [redacted].
Colie, Dennis G., [redacted].
Colliton, Jeffrey, [redacted].
Cook, Jeffrey M., [redacted].
Culver, Lyman C., [redacted].
Donovan, John J., [redacted].
Dragoo, Robert E., [redacted].
Eberlin, Lawrence J., [redacted].
Eiland, Lewis K., [redacted].
Esmay, Jerry D., [redacted].
Etzel, Stephen L., [redacted].
Evans, Larry D., [redacted].
Finegan, Ray D., [redacted].
Green, Herbert J., [redacted].
Haddick, John A., [redacted].
Harville, Jerry L., [redacted].
Hendrix, Kenneth N., [redacted].
Herrmann, William G., II, [redacted].
Howard, Duane L., [redacted].
Johnson, Harold L., [redacted].
Jones, George B., III, [redacted].
Junk, Robert J., Jr., [redacted].
Kelleher, Thomas J., Jr., [redacted].
Lewis, John C., [redacted].
Martin, John J., Jr., [redacted].
May, Jordan H., [redacted].
McHugh, Thomas J., [redacted].
Mihnovets, Nicholas, [redacted].

Nalepa, Thomas F., xxx-xx-xxxx
Nelson, Charles S., xxx-xx-xxxx
Ochoa, Jesse O., xxx-xx-xxxx
Palm, Leah, xxx-xx-xxxx
Palmer, Jesse E., xxx-xx-xxxx
Pasztor, John S., xxx-xx-xxxx
Pierce, Kenneth R., Jr., xxx-xx-xxxx
Rawden, Francis A., xxx-xx-xxxx
Reiss, David W., xxx-xx-xxxx
Ridgley, Edward E., xxx-xx-xxxx
Robillard, Robert J., xxx-xx-xxxx
Russell, David H., xxx-xx-xxxx
Schilder, Otto P. III, xxx-xx-xxxx
Sheldon, Douglas M., xxx-xx-xxxx
Shipley, Bruce G., xxx-xx-xxxx
Smith, Jack R., xxx-xx-xxxx
Sulivan, Patrick L., xxx-xx-xxxx
Sumner, Wayne S., xxx-xx-xxxx
Tracy, David S., xxx-xx-xxxx
Visnick, Allan D., xxx-xx-xxxx
Wadsworth, Thomas S., xxx-xx-xxxx
Weis, John R., xxx-xx-xxxx
Welton, John K., xxx-xx-xxxx
Wilkins, George H., III, xxx-xx-xxxx

To be second lieutenant

Butler, James M., xxx-xx-xxxx
Byington, Michael S., xxx-xx-xxxx
Chaney, Bobby F., xxx-xx-xxxx
Crowder, William S., xxx-xx-xxxx
Daane, John H., xxx-xx-xxxx
Eckhardt, Eric G., xxx-xx-xxxx
Estep, John D., xxx-xx-xxxx
Hall, Clint W., Jr., xxx-xx-xxxx
Hethcote, Stephen A., xxx-xx-xxxx
Hurchanik, Richard L., xxx-xx-xxxx
Mitchell, William H. J., xxx-xx-xxxx
Myers, Jimmie L., xxx-xx-xxxx
Saturen, Gary J., xxx-xx-xxxx
Skantz, Conrad P., xxx-xx-xxxx
Skrzysowski, Richard, xxx-xx-xxxx
Smith, Mason E., xxx-xx-xxxx

The following-named scholarship student for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290.

Santiago Rijos, Juan G.

HOUSE OF REPRESENTATIVES—*Monday, December 8, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The name of the Lord is a strong tower; the righteous man runs into it and is safe.—Proverbs 18: 10.

Almighty God, who art a strong tower of defense to all who put their trust in Thee, we, Thy children, come to Thee with gratitude for Thy steadfast love and praying that Thou wilt continue to be our refuge and strength in every hour of need. Grant us insight and courage to shun the voice of moral compromise and to shy away from all that is morally questionable.

In hours of decision, during times of temptation, through days of responsibility, and amid periods of suffering may we have the royalty of an inward peace that comes to those whose minds are stayed on Thee. Teach us to value a clear conscience, a clean mind, a pure heart, and a sense of Thy presence before all the honors earth can bring to us.

In thought, word, and deed may we glorify Thy holy name as we seek the good of all mankind. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, December 4, 1969, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2325. An act to amend title 5, United States Code, to provide for additional positions in grades GS–16, GS–17, and GS–18; and

S. 2869. An act to revise the criminal law and procedure of the District of Columbia, and for other purposes.

The message also announced that the Presiding Officer of the Senate, pursuant to Public Law 115, 78th Congress, entitled "An act to provide for the disposal of certain records of the U.S. Government," appointed Mr. McGee and Mr. Fong members of the Joint Select Committee on the Part of the Senate for the Disposition of Executive Papers referred to in the report of the Archivist of the United States numbered 70–2.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to the authority granted him on Thursday, December 4, 1969, he did on that day sign the following enrolled joint resolution of the House:

H.J. Res. 1017. Joint resolution making further continuing appropriations for the fiscal year 1970, and for other purposes.

And on Friday, December 5, 1969, signed an enrolled bill of the Senate as follows:

S. 118. An act to grant the consent of Congress to the Tahoe regional planning compact, to authorize the Secretary of the Interior and others to cooperate with the planning agency thereby created, and for other purposes.

EQUAL RIGHTS FOR MEN AND WOMEN

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VAN DEERLIN. Mr. Speaker, I am today introducing an amendment to the Constitution to provide for the equal rights of men and women.

I understand that 199 of our colleagues have already offered this resolution, and it is a distinct pleasure for me to join this distinguished and rapidly growing company.

An old and dear friend of mine, Miss Louise McLean, of San Diego, has been among the stanchest advocates of this amendment. Miss McLean, who is 88, came naturally by her concern for the rights of women. Her late mother, Sally Hart, was a lifelong fighter for women's right to vote, and is well remembered for her struggles on behalf of working women in Cincinnati.

Adoption of the equal rights resolution would not only be an act of simple justice; it would also be a fitting tribute to the many who, like Louise McLean, have labored so long in this worthy cause.

IS THE PAST PROLOGUE?

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of California. Mr. Speaker, when looking to the new year, I want very much to be optimistic. I would like to think that the economic picture will get brighter.

I then remember the statement etched in the granite of the National Archives Building here in Washington. The words are simple—"The Past Is Prologue."

It is depressing to think that the past months reflect what is in store for the Nation's economy in 1970. Prices have risen to an unacceptable level; interest rates are exorbitant.

The administration's "fight" against inflation has resulted in the highest interest rates in our history. These high rates have proven a severe blow to certain segments of the economy; namely, the home buyer and the small businessman and the consumer. The only institutions that stand to gain by the exorbitant interest rates are the big Wall Street banking conglomerates.

The cost of living is increasing at a rate no one can afford. If the consumer price index continues to rise at the present rate, the average consumer, already facing difficulties in the marketplace, faces a gloomy 1970.

I join with a vocal majority in again urging the administration to make a new year's resolution to initiate measures designed to lower interest rates, and to reduce prices.

JUVENILE CRIME

(Mr. KLEPPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLEPPE. Mr. Speaker, juvenile crime is the most pressing and threatening aspect of the crime problem. The arrests of juveniles has increased 78 per cent from 1960 to 1968, while the under-18 age group has only increased by 25 percent. With the alarming increases in crime statistics, it is disturbing to know that the juvenile statistics represent only the beginning of a career in crime for many young offenders.

I have joined in cosponsoring legislation which, I believe, attacks the root causes of juvenile crime. The legislation, if approved, will create the Institute for Continuing Studies of Criminal Justice.

The Institute will serve as the focal point for the dissemination of information and knowledge throughout the country in juvenile treatment and control.

In addition, the Institute, modeled after the highly successful FBI Academy,