would withold 5 percent of the total budget authority under H.R. 14261 for payments not required by law.

I would have voted "no" on rollcall No. 369, which would prohibit the use of IRS funds appropriated under H.R. 14261 for compiling and making public records of contacts made by members of Congress with respect to matters pending before the IRS. I would have voted "no" on rollcall No. 370, the vote on final passage of H.R. 14261, the Treasury, Postal Service and general Government appropriation bill for fiscal year 1977.

I would have voted "aye" on rollcall No. 371, the vote on the rule providing for consideration of H.R. 14114, which would temporarily increase the public debt limit. I would have voted "no" on rollcall No. 372, the vote on final passage of H.R. 14114.

Finally, on the following amendments to H.R. 6218, the Outer Continental Shelf Lands Act Amendments of 1976, I would have voted "no" on rollcall numbers 374, 375 and 376.

LITHUANIA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 16, 1976

Mr. RHODES. Mr. Speaker, as we in America near the observance of our 200th anniversary as a free Nation, it is appropriate that we pause amid our celebration and give some thought to those in the world who bear the burdens of tyranny and oppression.

Just 36 years ago, on June 15, the proud little nation of Lithuania was occupied by the Soviet Union and incorporated into their Communist country. Destruction of the free Government of Lithuania was followed by dispersal of many of its people. Many went to Siberia because of their forthright opposition to the shackles of the Communist form of government.

This anniversary is a rueful event for the thousands of Americans of Lithuanian descent, who still keep alive the dream that their homeland shall one day again be aglow with the light of freedom.

It should, also, be a reminder to all of us who enjoy the blessings of liberty that we must maintain eternal vigilance in a world harboring aggression and inhabited by many who are ill-disposed toward our Republic. It is appropriate that the House remember the date of Lithuania's fall, and that we use this occasion to rededicate ourselves to the support of freedom around the world.

SENATE—*Thursday, June 17, 1976*

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

PRAYER

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

Eternal Father, in whom we live and move and have our being, before whom the generations rise and pass away, we quiet our hearts in reverent remembrance of the emissaries of this Nation whose lives have been taken in the rampant violence of this age. O God of all comfort, be near to all their loved ones, assuaging their grief and comforting their hearts.

We thank Thee for devotion, even unto death, of those in far-flung foreign posts across the Earth who serve this Nation and the peace of the world. Be with them and their families in times of loneliness and isolation.

Into our hearts send Thy peace and with peace give us power and wisdom. When times are tense and the days are heavy with work, keep our hearts in tune with Thee lest we miss the sudden insight, the clear perception, the moment of high vision. Reward our labor with the inner satisfaction of doing our best in Thy strength.

We pray in the Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, June 16, 1976, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar under "New Reports."

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

COMMODITY FUTURES TRADING COMMISSION

The second assistant legislative clerk read the nomination of Robert L. Martin, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

WAIVER OF SECTION 402(a) OF CONGRESSIONAL BUDGET ACT—CONSIDERATION OF SENATE JOINT RESOLUTION 203

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Rhode Island (Mr. PELL) I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 468. This has been cleared all the way around.

The ACTING PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S.J. Res. 203. Such waiver is necessary because S. 2657, the Education Amendments of 1976, which was reported to the Senate on May 14 (Report No. 94-882), will not be enacted into law by June 30, 1976. S.J. Res. 203 is necessary to continue the authority of the Commissioner of Education to insure loans under the Guaranteed Student Loan Program during the Transition Quarter and to continue the Emergency Insured Student Loan Act of 1969 for the same period.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

Without objection, the resolution (S. Res. 468) was considered and agreed to.

HIGHER EDUCATION ACT AMENDMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 905, Senate Joint Resolution 203.

The ACTING PRESIDENT pro tempore. The joint resolution will be stated.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 203) to amend the Higher Education Act of 1965, and for other purposes.

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

There being no objection, the joint resolution (S.J. Res. 203) was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S.J. RES. 203

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Technical Provisions Act of 1976".

SEC. 2. (a) The first sentence of section 424 (a) of the Higher Education Act of 1965 is amended by striking out "for the fiscal year ending June 30, 1975" and inserting in lieu thereof the following: "each for the fiscal year ending June 30, 1975, for the fiscal year ending June 30, 1976, and for the period beginning July 1, 1976, and ending September 30, 1976".

(b) Section 428(a)(5) of such Act is amended by striking out "June 30, 1975" and

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

inserting in lieu thereof "September 30, 1976".

(c) Section 2(a)(7) of the Emergency Insured Student Loan Act of 1969 is amended by striking out "July 1, 1975" and inserting in lieu thereof "October 1, 1976".

(d) The amendments made by this section shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 of the General Education Provisions Act, beyond the date specified in such amendments.

(e) For the purposes of section 446(b) of the Higher Education Act of 1965, the period beginning July 1, 1976, and ending September 30, 1977, shall be treated as one fiscal year, any other provision of law to the contrary notwithstanding.

(f) Section 411 of the Higher Education Act of 1965 is amended by inserting at the end thereof the following new subsection:

"(c) Any institution of higher education which enters into an agreement with the Commissioner to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Commissioner.".

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I wish to yield 5 minutes of my time to the distinguished Senator from Wisconsin (Mr. NELSON), but before I do so I have a few words to say.

DEATH OF AMBASSADOR FRANCIS E. MELOY, JR.

Mr. MANSFIELD. Mr. President, I have a few words to say about an old, dear, and trusted friend who was assassinated in Lebanon on yesterday. I refer to Francis E. Meloy, Jr., with whom I had a very excellent relationship since we first became acquainted while he was attached to the U.S. Embassy in Saigon, almost 25 years ago.

There have appeared a number of editorials and commentaries about the services of this distinguished man and his associate, Robert O. Waring.

Mr. President, I ask unanimous consent at this time that editorials from the Baltimore Sun, the New York Times, a news story from the Baltimore Sun, and two articles which appeared in today's issue of the New York Times, one entitled "Envoy 30 Years in Foreign Service; Economic Aide Had Lebanese Contacts" and the other entitled "Four U.S. Diplomats Slain in Eight Years," be printed at this point in the RECORD.

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

[From the New York Times, June 17, 1976]

ENVOY 30 YEARS IN FOREIGN SERVICE; ECONOMIC AIDE HAD LEBANESE CONTACTS

(By David Binder)

WASHINGTON, June 16.—Francis Edward Meloy Jr., the United States Ambassador to Lebanon who was killed in Beirut, was a career diplomat whose 30 years in the Foreign Service had taken him all over the world.

He came from one of Washington's oldest families, being a direct descendant of James Nourse, the first Comptroller of the Currency in 1800's. The family settled in Washington in 1800.

It was Ambassador Meloy's quick and sure performance in coordinating the United States relief effort for Guatemala when it was devastated last February by earthquakes that caused him to be chosen April 21 for the difficult assignment in Lebanon.

"He had all the talents that led to him being plucked out of Guatemala and sent to Lebanon," said William D. Rogers, who was then his superior as Assistant Secretary of State for Inter-American Affairs.

The envoy was no stranger either to the Middle East or to situations involving terrorists.

FIRST POST IN DHAHRAN

His first diplomatic post was in Dhahran, Saudi Arabia, where he served in 1946 as vice consul. He had been sent out shortly after joining the State Department, having completed four years in naval intelligence as a reserve officer.

While ambassador to the Dominican Republic in March 1970, Mr. Meloy spent three days negotiating the successful release of his military attaché, Lt. Col. Donald J. Crowley, who had been kidnapped by terrorists.

"I learned respect and affection for him then," recalled Frank J. Devine, who was his deputy chief of mission at the time. "We had a terribly close relationship."

Mr. Meloy was born March 28, 1917, in Washington, the son of Francis E. Meloy Sr., and Anne Teresa Connor. The senior Meloy had become a government employee in 1898 and served as a geographer in the Philippines and China in the course of a 40-year career. He died at 96 in the Dominican Republic in 1973 in the home of his son.

The Meloys were a close family. Daniel Meloy, a New York business consultant, said today he was too deeply affected by the killing to talk about his only brother. A third cousin, Thomas Meloy, a Washington businessman, called him "my closest friend." The envoy was a bachelor.

Returning from Dhahran in 1946, he worked as a personal assistant to Secretary of State Dean Acheson until the end of the Truman Administration in 1953. It was an experience he always treasured, colleagues said today.

His later posts included those of political officer in Saigon, from 1953 to 1956, and then in Paris, until 1959. He directed the Office of Western European Affairs from 1962 to 1964. For the next five years he was the deputy chief of missions in Rome and then was named ambassador to the Dominican Republic.

ROBERT O. WARING

Robert Olaf Waring, the economic-commercial counselor who was killed in Beirut along with the ambassador, joined the State Department as a clerk in 1944 but became an economic expert at embassies beginning in the early 1960's.

The 56-year-old New York native, who received his B.A. and M.A. degrees from Fordham University, arrived with his family in Beirut in June 1972. He became a senior member of the embassy staff, frequently called upon to fill the role of chargé d'affaires.

As the economic stability of Lebanon collapsed, Mr. Waring turned his expertise increasingly to political matters. State Department officials said he had established "extremely good contacts" in the Lebanese business and political community, in particular with Elias Sarkis, former director of the Central Bank, who is now President-elect.

After serving with the War Department in 1943 and 1944, Mr. Waring joined the Foreign Service, holding administrative posts in Casablanca, Rabat, Salonika, Athens, West Berlin, and London. From 1961 to 1966, he served as economic officer in Vienna in West Berlin before returning to Washington in 1971.

Mr. Waring is survived by his wife, the former Irene Pollax, and four children.

[From the New York Times, June 17, 1976]

FOUR U.S. DIPLOMATS SLAIN IN 8 YEARS—7 SENIOR OFFICIALS ABDUCTED SINCE 1968, DATA SHOW

WASHINGTON, June 16.—Seven senior United States diplomats have been kidnapped in the last eight years and four United States ambassadors or chiefs of missions have been killed, according to State Department figures.

In addition, Palestinians have kidnapped a number of United States diplomats in Jordan and Lebanon since 1970. A partial chronology of such attacks since 1968 follows.

Aug. 28, 1968—J. Gordon Mein, Ambassador to Guatemala, killed while attempting to avoid kidnapping by revolutionaries in the capital.

Sept. 4, 1969, C. Burke Elbrick, Ambassador to Brazil, kidnapped by revolutionaries in Rio de Janerio. He was released unharmed three days later after Brazil released 15 political prisoners.

April 5, 1970—Curtis S. Cutter, a Consul General, wounded while trying to avoid kidnapping by revolutionaries in Porto Alegre, Brazil.

June 1970—In Amman, Jordan, members of the Popular Front for the liberation of Palestine kidnapped two diplomats in Jordan; raped the wives of two officials; shot and killed an Army attache and held 60 people hostage in two hotels.

July 31, 1970—Tupamaro guerrillas kidnapped Daniel Mitrione, a public-safety adviser in Uruguay. His body was found on Aug. 10.

Jan. 23, 1973—Clinton E. Knox, Ambassador to Haiti, and Consul General Ward Christensen were held hostage in Mr. Knox's residence by kidnappers. They were freed in return for $70,000 and the release of 12 political prisoners.

March 1, 1973—Cleo Noel, the Ambassador to the Sudan, and his deputy chief of mission, George Moore, were seized by Palestinian guerrillas in Khartoum, and later killed with the Belgian charge d'affaires.

May 4, 1973—Terrence G. Leonhary, the Consul General, was kidnapped by revolutionaires in Guadalajara, Mexico, and freed two days later in return for the release of 30 Mexican political prisoners and an $80,000 ransom.

Aug. 19, 1974—Rodger Davies, the Ambassador to Cyprus, was shot and killed after demonstrators beseiged his Embassay in Nicosia.

Feb. 26, 1975—Guerrillas kidnapped and killed John P. Egan, the consular agent in Cordobza, Argentina.

April 1975—Palestinians held John McKay, an official of the United States Drug Enforcement Agency, hostage for two days at a refugee camp in Beirut.

May 1975—Palestinians in Beirut kidnapped and beat Michael Konner, a diplomat and released him after 14 hours.

June 29, 1975—Col. Ernest Morgan of the Army was kidnapped by Palestinian guerrillas from a taxi and released two weeks later in return for food, clothing and building materials.

Oct. 22, 1975—Palestinians in Beirut kidnapped two United States Information Service employees; Charles Gallagher and William Dykes, and held them for four months.

Dec. 23, 1975—Richard S. Welch, a Central Intelligence Agency official assigned as first secretary at the Embassy in Athens, was killed by unidentified assailants.

[From the Baltimore Sun, June 17, 1976]

MELOY IS 4TH U.S. AMBASSADOR SLAIN WHILE ON TOUR OF DUTY SINCE 1968

Francis E. Meloy, Jr., the U.S. ambassador to Lebanon, was the fourth American ambas-

sador to have been killed on a tour of duty since 1968.

The White House reported the death of Mr. Meloy and Robert O. Waring, an economic attache, in Lebanon yesterday after they disappeared en route to a meeting with Lebanese officials.

Rodger P. Davies, the ambassador to Cyprus, was shot to death in his embassy in Nicosia shortly after the Turkish-Greek Cypriot clash on the Mediterranean island in the summer of 1974.

Mr. Davies was hit in the chest by a stray bullet August 19, 1974, as he huddled in a corridor outside his office while about 600 Greek Cypriot demonstrators rioted outside.

The Greek Cypriots believed the Americans had favored the Turkish invasion of the island that followed an attempted coup against President Makarios by Greek Cypriots favoring union with Greece.

Mr. Davies, 53, had been at his post about one month, as had Mr. Meloy.

In March 1973, the American ambassador to Sudan, Cleo Noel, and an embassy counsel, George C. Moore, were murdered by eight Palestinian guerrillas who invaded the Saudi Arabian embassy in Khartoum during a farewell reception for Mr. Moore.

The guerrillas killed Mr. Noel and Mr. Moore after their demands for the release of terrorists held in several countries and for a flight to the United States were refused. The assassins were convicted of the murders but subsequently released.

In 1968, Ambassador John Gordon Mein was killed during a kidnap attempt in Guatemala.

Earlier this year, Palestinian radicals in Beirut kidnapped a black U.S. Army colonel and held him until the Lebanese government delivered free food and other supplies demanded in ransom.

Col. Ernest R. Morgan, 43, was released after two weeks by kidnapers calling themselves the Socialist Revolutionary Action Organization. Mr. Morgan had been stationed in Ankara, but had stopped in Beirut with a U.S. aid mission en route to Pakistan when he was kidnaped.

[From the New York Times, June 17, 1976]

FALLEN AMBASSADOR

Three senseless deaths were added to the tens of thousands of innocent victims already fallen to marauding civil war in Lebanon: the United States Ambassador, his Economics Counselor and the embassy driver, executed in Beirut by elements unknown.

Ambassador Francis E. Meloy Jr. had been at his post only 35 days. Setting off on his last drive through the rubble of a Beirut no-man's-land, he was about to have his first working encounter with Lebanon's President-elect Elias Sarkis. No rational purpose can explain this act of criminality—only a desperate intent to provoke a great power.

Some day, perhaps, the full story of United States mediation efforts to resolve the Lebanese tragedy will be revealed; for the present it seems clear that all responsible governments of the area—Syria, Israel, the rival leaders of Lebanon itself—have found the American role essential and helpful. Responding to provocation now would only undo what has been accomplished and serve no interests except those of the terrorists. In this awareness, President Ford rightly declared that the United States would "not be deterred from its search for peace," the search in which the Ambassador was himself engaged in his last hour.

The most fitting monument to the memory of Ambassador Meloy and his colleagues will be a truce and a political settlement in which all sides can join to restore Lebanon to the pride and standing of a nation at peace.

[From the Baltimore Sun, June 17, 1976]

IN THE SERVICE OF THEIR COUNTRY

Francis E. Meloy, Jr., distinguished himself earlier this year as Ambassador to Guatemala when, after living through the earthquake, he organized the American relief efforts. In recognition, he was posted to Lebanon. The nation is in the debt of such courageous diplomats as Ambassador Meloy and his economic counselor, Robert O. Waring, who were assassinated while crossing no-man's land in Beirut yesterday. They were on a normal mission, to call on the president-elect of the country, in most abnormal times.

Mr. Meloy died in the service of his country, but as in Guatemala, his work was also to help the people of the nation where he served. American diplomacy, while hardly the central focus of Lebanese affairs, is now directed toward a settlement of internal strife. The unknown assassins, who must have known who he was and what he was about, can only have wanted the turmoil and killing and misery to go on. Until now, the important personages in the Lebanese drama, domestic and foreign, have led charmed lives. The sister of the leftist Druze leader, Kamal Jumblatt, was assassinated; leaders themselves have lived. The president, Suleiman Franjieh, felt compelled to flee Beirut and any exercise of office. The Palestinian leader, Yasir Arafat, has absented himself from the country while directing his followers.

Mr. Meloy appears to have been moving without heavy security. Few will, now. Lebanon is a less safe country for everyone today. President Ford is right to demand that the assassins be brought to justice. But there is no justice while Lebanon is in anarchy. And all efforts must go forward, as he said, to find Lebanon an internal peace to end that anarchy.

Mr. HUGH SCOTT. Mr. President, may I just say that I join with the Majority Leader in the shock and sadness of the assassination of Mr. Meloy, whom we in the Foreign Relations Committee had recently confirmed and with whom we had the greatest understanding.

We are grieved by this violent act which resulted in his assassination and that of Mr. Waring and the driver of their car.

The risks assumed by members of the foreign service are not well understood in this country, but it is, in its own way, a battleline, and these are frontline fighters for peace, as the distinguished majority leader has noted.

I extend on behalf of all of us on this side our sincere condolences to the families aggrieved by this sad and deplorable event.

Mr. MANSFIELD. Mr. President, I appreciate the words of the distinguished Republican leader. I am sure that we speak for all Members of the Senate in expressing our deep regret and sadness.

The Senate as a whole extends its condolences to the members of Frank Meloy's family.

STRENGTHENING THE TAX REFORM ACT OF 1976

Mr. NELSON. Mr. President, on behalf of myself and 14 other Senators, I am proposing a package of tax reform amendments designed to strengthen in a number of important respects the Tax Reform Act of 1976 as reported by the Committee on Finance.

We believe that the Congress should take a bolder and firmer step toward meaningful tax reform at this time than what has been recommended by the committee. Five of us who are sponsoring this package of strengthening amendments are members of the Finance Committee, Senators HARTKE, MONDALE, HATHAWAY, HASKELL, and myself. We believe that much of the voluminous work accomplished by the committee in its consideration of the Tax Reform Act over the past few months is valuable and should be enacted.

But the general posture of the Finance Committee bill on tax reform is weak and inadequate. The bill suffers from serious deficiencies.

It does not achieve adequate tax reform.

It does not raise the modest $2 billion revenue needed to meet the Budget Committee recommendation for fiscal 1977.

As a direct result of these failures, the bill would actually raise taxes on nearly every taxpaying family and single person in the country in the middle of 1977, and would deprive elderly taxpayers of needed tax relief for another year.

And finally, in every future year the committee's tax reforms will actually lose more revenues than they gain.

Overall, the committee bill is too weak in trimming back on existing tax privileges and special tax benefits, and too vigorous in opening up a host of new special interest tax breaks. Many of these new tax breaks in the committee bill would primarily benefit the wealthiest taxpayers in the country, as many existing loopholes do.

The committee bill takes away some existing tax benefits from the very wealthy with one hand, and extends new ones with the other. On balance, it largely protects the economic interests of the wealthiest few taxpayers. And it does far too little to advance the interests of the average taxpayer.

We recognize that what we refer to as "tax reform" is enormously complicated, intensely controversial and politically difficult. Conscientious people differ over what is and what is not "reform" and how it should be achieved. Many of us believe there should be a major overhauling of the whole tax structure, but we recognize that to involve a long tough fight. We believe that our proposals represent a significant step in the right direction and, in our judgment, they represent about the maximum achievable at this time. If we prevail, we think it will be a breakthrough that will pave the way for further significant reforms in the near future.

Mr. President, I ask unanimous consent that at the conclusion of my statement a summary outline be printed in the RECORD. It explains in detail the differences between the House bill, the Senate bill, and the proposed amendment, as well as attached statements endorsing the package of proposals we have made.

The ACTING PRESIDENT pro tem- port. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NELSON. Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a memorandum drafted by tax

specialists evaluating various aspects of the issues which are raised within this tax bill and relative to the reform amendments that the 15 Senators are proposing.

I ask that this memorandum be printed at the conclusion of my remarks and after the item I have already supplied for the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. NELSON. We believe we must take stronger steps than the Committee on Finance has been willing to take in trimming back the lush growth of these special tax favors, most of which are not available to the average taxpayer. We must begin to deal seriously with the favoritism that little by little has crept into our tax system, and the unrestrained growth in tax expenditures that has resulted.

To this end, we are offering a balanced package of moderate strengthening amendments to the committee bill. Our package does not attempt to achieve all-out tax reform. It does aim to make a more meaningful effort at starting on serious reform than what the committee is recommending.

We have tailored our proposal to;

First, raise needed revenue, sufficient to meet the Budget Committee's recommended $2 billion target for trimming back on our rapidly growing "tax expenditures," or special tax breaks under the Internal Revenue Code;

Second, continue the 1975 tax reductions throughout 1977 for family and individual taxpayers and businesses in general;

Third, provide immediate tax relief to the elderly through an improved retirement income credit;

Fourth, avoid the net loss in new revenues in future years that would result from the committee's version of "tax reform," in which its newly opened tax loopholes will actually outweigh its meager loophole closing by 1978, and every year thereafter;

Fifth, close or reduce some significant loopholes in the Tax Code.

We believe it is vital that we make a start now. We can break the log-jam of inertia that has paralyzed efforts at tax reform, by adopting a moderate, balanced, but distinctly more vigorous program of reforms than the committee bill contains. That is what our proposal aims to do.

The integrity of our entire system of income taxation, relying as it does so heavily on self-reporting and the responsibility of the individual taxpayer, may very well depend on the ability and willingness of the Congress to show that we can be serious about tax reform.

The issue of tax reform is the best test issue as to whether the Congress will now be seen as legislating fairly on behalf of the average citizen, rather than predominately in the interest of the country's wealthy investors and large business corporations.

Tax reform is the issue that does put Congress to this test most clearly. Because the heart of what tax reform is all about is the direct tradeoff that exists between allowing special tax breaks to continue and expand for a growing list of specially-situated firms and individuals—at a cost in lost tax revenues of billions every year—or providing that same degree of tax reduction to individuals and businesses generally, through general tax relief to the fullest extent possible within the overall fiscal balance required by the condition of the economy at each period of time.

Over the past 10 years, direct expenditures of all kinds by the Federal Government have grown 146 percent, a very great—many would say an excessive—rate of increase. But over that same period, we have had an even greater growth, and largely a hidden one, in so-called tax expenditures—by a total of 176 percent.

In fact, these "tax expenditures"—all the various special benefits to particular groups of taxpayers through deviations from the basic provisions of the tax law—have grown faster than any other major economic category, as shown by the following figures:

	Rate of increase 1970–77 Percent
GNP	67
Budget receipts	54
Budget outlays	87
Tax expenditures	123

By 1977, tax expenditures of all kinds will total $105 billion, compared with total direct Federal expenditures of $413 billion in all categories. In 1970, tax expenditures were equivalent to 23 percent of budget receipts; this year, 1976, they will be equivalent to 33 percent of total receipts.

In 1970, Federal tax expenditures amounted to 4.6 percent of GNP. By fiscal 1976, that proportion has grown to 6.2 percent. Clearly, the growth of these special tax breaks has not yet been brought under effective budgetary control. And, it is equally clear that our over-all budgetary discipline over the use of tax revenues can be fatally undermined unless we begin to exercise the same deliberate budgetary discipline over the use of potential tax revenues in the granting of tax breaks as we have begun to establish over the use of actual revenues in the various programs of direct Government expenditures.

This basic point, that the growth of tax expenditures has not been under effective overall budgetary control, is clearly addressed in the report of the Senate Budget Committee on the "First Concurrent Resolution on the Budget for Fiscal Year 1977."

The Committee believes it is as important to control the growth of tax expenditures as it is to control the growth of direct spending programs. Tax expenditures must be subject to the same standards of review as are spending programs if the new congressional budget process is to have a positive effect over the complete spectrum of Federal Budget management.

The name "tax expenditures" causes some confusion, since what we are talking about are normal tax revenues not collected. But the point is that these revenues not collected represent the large and growing number of special tax preferences, tax benefits, tax breaks to particular individuals and corporations in special circumstances reducing their taxes below what their regular and normal taxes would be.

And the more we allow these special tax breaks to grow, the less we are able to provide the general tax relief that the taxpaying public needs.

It is this direct tradeoff between special tax breaks on the one hand and general tax relief on the other that is the heart of what tax reform is all about.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point tables which show the revenue effects of the Finance Committee bill and of our proposed strengthening amendments in six major areas of reform.

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

TABLE I.—*Extension of genral tax reductions—fiscal year 1977*

	Billion
Tax cut extension contemplated by first concurrent budget resolution	$17.3
Tax cut extension voted by Finance Committee	15.6
Tax cut taken away by Finance Committee	1.7
Tax cut restored by package	1.7
Total tax cut extension if package enacted by Senate	17.3

TABLE II.—EFFECT OF STRENGTHENED TAX REFORM IN 6 MAJOR AREAS AND IMPROVED TAX RELIEF FOR THE ELDERLY; OVERALL REVENUE EFFECT OF THESE REFORMS ON FINANCE COMMITTEE BILL

[In millions of dollars; fiscal year]

	Revenue gain over current law				
	1977	1978	1979	1980	1981
1. Minimum tax on individuals:					
House bill	1,083	1,188	1,302	1,416	1,544
Finance Committee	980	1,077	1,187	1,306	1,437
Reform amendment	1,277	1,405	1,545	1,700	1,870
Minimum tax on corporations:					
Finance Committee	0	0	0	0	0
Reform amendment	550	1,150	1,208	1,268	1,331
2. Maximum tax on investment income:					
Finance Committee	−49	−333	−401	−481	−577
Reform amendment	0	0	0	0	0
3. Shelter provisions:					
House bill	490	363	444	485	560
Finance Committee	165	107	98	105	126
Reform amendment	422	270	245	243	253
4. DISC:					
House bill	454	531	512	503	550
Finance Committee	84	306	431	422	495
Reform amendment	476	664	791	877	959
5. Foreign tax deferral:					
Finance Committee	0	0	0	0	0
Reform amendment	25	82	142	202	264
6. Oil and gas excess foreign tax credits:					
Finance Committee	0	0	0	0	0
Reform amendment	27	60	60	60	60
7. Improved tax credit for elderly:					
House bill	−340	−340	−340	−340	−340
Finance Committee	−101	−270	−270	−270	−270
Reform amendment	−340	−340	−340	−340	−340
Overall revenue impact:					
Finance Committee bill, as reported	980	−80	−160	−128	−263
Finance Committee bill, with reform package	2,338	2,324	2,456	2,800	2,923

Mr. NELSON. Table 1 shows the level of continuing tax reduction that will prevail in fiscal year 1977 if all of the emergency tax reductions first voted in 1975 are extended throughout the year. This amounts to $17.3 billion, and is the general tax-cut extension contemplated for next year by the first concurrent budget resolution.

The Finance Committee bill provides a full-year extension of only part of these general tax reductions, which are presently in effect but are due to expire on June 30. It would make all these earlier tax reductions permanent except for the individual and family tax credit of $35 per dependent, or 2 percent of the first $9,000 of taxable income.

This important personal tax reduction would be extended by the committee only through June 30, 1977. In this way, the continuation of the earlier voted general tax reductions, presently in force, is cut back by $1.7 billion in fiscal 1977 by the committee's action. By cutting off the personal tax credit in midyear, the committee's general tax-cut extension in fiscal 1977 would amount to only $15.3 billion of general tax reduction, instead of the full $17.3 billion contemplated by the budget resolution.

Upon the expiration of the personal tax credits in mid-1977 as contemplated by the committee bill, the effect would be either a tax increase for every taxpaying family and individual in the country, or the legislation of a further extension at that time, which would necessarily break the overall revenue target of the first concurrent budget resolution. Our amendment will call for full extension of the personal tax credits in fiscal 1977, thereby restoring the full $17.3 billion of tax-cut extensions called for by the budget resolution.

The Finance Committee bill reduces tax expenditures—that is, raises new revenue through tax reforms—by only $980 million in fiscal 1977.

The remainder of the $2 billion reduction in tax expenditures recommended by the report on the budget resolution was taken out of the tax cuts for individuals by terminating the $35 per person credit after June 30, 1977. The Finance Committee also relays the effective dates of a much needed set of changes in the retirement income credit, solely in order to finance new tax expenditures proposed by the committee. The House and Senate have both agreed that the retirement income credit should be simplified and expanded to help relieve the burden of inflation on those elderly Americans with small or fixed incomes. Those changes should be effective immediately.

The Finance Committee bill, while cutting back on these two provisions that are most important to low- and middle-income and retired taxpayers, thereby increasing the tax burden for these taxpayers, lowers taxes for the wealthiest Americans by reducing from 70 to 50 percent the top bracket tax rates on unearned investment income such as dividends, interest, and royalties. This provision would provide $300 million in tax benefits annually to the richest 1 percent of the people in the country. By contrast, to help pay for this provision, the tax bill of all low- and middle-income individuals will go up more than $35 per year starting on July 1, 1977.

Our package would continue all components of the general tax cut and make the retirement income credit effective immediately. We would raise the needed revenues through a series of needed reforms.

First, our package would strengthen the minimum tax in an attempt to insure that wealthy individuals pay their fair share of tax.

The minimum tax was enacted is 1969, after a Treasury report that 155 individuals with over $200,000 of adjusted gross income paid no Federal income tax. But the minimum tax has been extremely disappointing in its performance. By 1974, the Treasury reported that 244 individuals with $200,000 AGI paid no tax.

One of the major weaknesses of the present minimum tax is the deduction from preference income for taxes paid on other income. Our proposal eliminates that deduction and substitutes a $10,000 exemption for the present $30,000 figure. The minimum tax rate would be raised from 10 to 15 percent. The changes will also apply to corporations. Taken together, these minimum tax amendments will correct the major weaknesses of the Finance Committee bill in this important area.

Second, the unjustified tax cut for the wealthy—the minimum 50-percent rate on dividends and interest—would be deleted from the bill.

Third, our amendment would limit the tax benefits from tax shelter investments used by wealthy taxpayers to avoid paying tax on their income earned as doctors, dentists, lawyers, professional athletes, corporate executives and movie stars. We propose to adopt the LAL provisions in the House bill, with an exception for investments in residential real estate. LAL is a concept originally proposed by the Treasury in 1973, and will effectively curb the tax shelter abuse.

Fourth, it is vital to end the export of jobs for U.S. workers by repealing the tax deferral provisions which encourage American-based multinational corporations to locate plants overseas. Under present law, the profits of foreign subsidiaries are not taxed until they are returned to this country. As a result, multinational corporations have a positive tax incentive not to bring that much needed capital home and not to create jobs in the United States. Instead, they continuously invest and reinvest their profits in foreign countries, building factories and businesses abroad that should be built in this country, and providing jobs for foreign workers that should go toward reducing the unemployment rate at home. Our proposed amendment will close this "runaway plant and runaway job" loophole.

Fifth, the provision granting tax relief to multinational corporations for their export income—DISC—should be made much more efficient. DISC has been widely attacked as a wasteful, inefficient and counter-productive tax incentive. In fact, the current incentive is a creation of a world which no longer exists—the world of fixed exchange rates. With the introduction of flexible exchange rates in 1971, DISC is to a large extent a $1.50 billion windfall for exporters, and may actually be costing jobs for U.S. workers. Some of us favor outright repeal of DISC. At the very least, all of us agree that the Senate should take the fat out of DISC, through a provision to allow the tax benefit to larger exporters only to the extent they actually increase their export activity. Adoption of our so-called incremental DISC amendment would close less than half of the existing loophole, while leaving the benefit intact for multinational corporations that actually increase their exports, and for all smaller exporters.

Finally, the amendment would limit the amount of the foreign tax credit for oil and gas to the statutory corporate tax rate of 48 percent. Since the foreign tax credit is intended only for the purpose of avoiding double taxation of the same income by two countries, the credit should be limited to the actual U.S. tax rate. The Tax Reduction Act of 1975 limited the allowable credit to 50 percent, and our amendment would reduce it to 48 percent. The amendment would also allow the Treasury to deny foreign tax credits in cases of payments to foreign governments which are obviously royalties, not taxes, and which should therefore properly be taken as tax deductions, not tax credits.

The proposed package of amendments is not, of course, comprehensive tax reform. But it is a start in the right direction, it is a vast improvement over the Finance Committee bill, and it complies with both the letter and the spirit of the Senate budget requirements.

Of course, each of us, as supporters of this package, also feel that in many other areas, much stronger tax reform is needed as well. We intend to propose or support additional floor amendments during the Senate debate in such areas to improve the bill, to delete objectionable provisions and new tax loopholes added by the Finance Committee, and to offer additional reforms in areas where the committee failed to act.

The time has come to stop using platitudes to feed the average taxpayer's hunger for tax reform. What is needed now are Senate votes that prove our real commitment to a fairer tax system for every citizen.

Mr. President, I believe the first issue in the package of tax reform amendments will be the LAL, the debate on that issue to be handled, in the main, by Senator HASKELL and Senator HATHAWAY. Each of the other proposals in this tax package will be the special responsibility of other cosponsors of this whole package.

EXHIBIT 1

TAX REDUCTION AND TAX REFORM PACKAGE

Sponsors: Senators Nelson, Hollings, Brooke, Clark, Hart (Colo.), Hart (Mich.), Hartke, Haskell, Hathaway, Huddleston, Humphrey, Kennedy, Mathias, Mondale, Proxmire.

OUTLINE OF TAX REDUCTION AND TAX REFORM PACKAGE

1. Restore $1.7 billion in tax cuts for individuals for FY 1977 deleted by the Finance Committee bill.

2. Strengthen the minimum tax on wealthy individuals and corporations.

3. Delete the maximum 50% tax on unearned income proposed in the Committee Bill.

4. Restrict the use of tax shelters.

5. Restrict the DISC incentive for exports

by limiting the benefit to incremental exports over a base period level.

6. Phase out the benefit of tax deferral used by multinational corporations to avoid tax on foreign income.

7. Limit the foreign tax credit allowed for oil and gas to the U.S. corporate tax rate of 48%.

8. Make the retirement income credit provided by the House bill for the elderly effective immediately, rather than phased in under the Committee bill.

9. Revenue effect of package: complies with the First Concurrent Budget Resolution for FY 1977, by restoring the tax cut for individuals and by raising $2.3 billion in tax reforms.

CONTENTS INSIDE

Summary of revenue effects of package	2
Fact sheets on package:	
Tax cut for individuals	3
Minimum tax	4
Maximum tax	5
Tax shelters (LAL)	6
DISC	7
Deferral	9
Foreign tax credits for oil	10
Retirement income credit for the elderly	11
STATEMENTS OF SUPPORT	
AFL-CIO	12
United Auto Workers	14
Common Cause	15
Public citizen (Ralph Nader)	16
National Council of Senior Citizens	17
Statement of economists on tax reform	18

SUMMARY OF REVENUE EFFECTS OF TAX REDUCTION AND TAX REFORM PACKAGE

Tax reduction: Restore full tax cut for individuals—Fiscal year 1977

[Dollars in billions]

Tax cut extension contemplated by first concurrent budget resolution	$17.3
Tax cut extension voted by Finance Committee	15.6
Tax cut taken away by Finance Committee	1.7
Tax cut restored by package	1.7
Total tax cut extension if package enacted by Senate	17.3

TAX REFORM

[In millions of dollars; fiscal year]

	Revenue gain over current law				
	1977	1978	1979	1980	1981
1. Minimum tax on individuals:					
House bill	1,083	1,188	1,302	1,416	1,544
Finance Committee	980	1,077	1,187	1,306	1,437
Reform amendment	1,277	1,405	1,545	1,700	1,870
Minimum tax on corporations:					
Finance Committee	0	0	0	0	0
Reform amendment	550	1,150	1,208	1,268	1,331
2. Maximum tax on unearned income:					
Finance Committee	−49	−333	−401	−481	−577
Reform amendment	0	0	0	0	0
3. Shelter provisions:					
House bill	490	363	444	485	560
Finance Committee	165	107	98	105	126
Reform amendment	422	270	245	243	253
4. DISC:					
House bill	454	531	512	503	550
Finance Committee	84	306	431	422	495
Reform amendment	476	664	791	877	959
5. Foreign tax deferral:					
Finance Committee	0	0	0	0	0
Reform amendment	25	82	142	202	264
6. Oil and gas excess foreign tax credits:					
Finance Committee	0	0	0	0	0
Reform amendment	27	60	60	60	60
7. Improved tax credit for elderly:					
House bill	−340	−340	−340	−340	−340
Finance Committee	−101	−270	−270	−270	−270
Reform amendment	−340	−340	−340	−340	−340
Overall revenue impact:					
Finance Committee bill, as reported	980	−80	−160	−128	−263
Finance Committee bill, with reform package	2,338	2,324	2,456	2,800	2,923

TAX REDUCTION: EXTENSION OF TAX CUT FOR INDIVIDUALS

First concurrent budget resolution—

Contemplates full extension of 1976 tax cuts for individuals and corporations through calendar year 1977.

Revenue loss: $17.3 billion.[1]

Finance Committee bill—

Terminates $1.7 billion of individual tax cuts on June 30, 1977.

Revenue loss: $15.6 billion.

Proposed floor amendment—

Restore full tax cut for individuals.

Revenue loss: $17.3 billion.

MINIMUM TAX

House bill—

Raises 10% rate to 14%.

Reduces $30,000 exemption to $20,000 of tax preference income, phasing out at $40,000 of preference income.

Repeals deduction for regular taxes paid.

Adds additional tax preference items.

Retains existing law for corporations.

Increases revenues by $1.1 billion.

Finance Committee bill—

Raises rate to 15%.

Provides exemption equal to greater of $5,000 or regular taxes paid.

Adds additional tax preference items.

Generally retains existing law for corporations.

Raises revenues by $1.0 billion.

Proposed floor amendment—(effective January 1, 1976 on individuals and July 1, 1976 on corporations)—

Raises rate to 15%.

Reduces exemption to $10,000.

Repeals deduction for regular taxes paid.

Includes the tax preference items in the Finance Committee bill.

Generally applies all changes to corporations.

Raises revenues by $1.8 billion: $1.3 billion from individuals, $500 million from corporations.

Need for proposed floor amendment—

Present minimum tax has been a major disappointment:

244 individuals with over $200,000 AGI paid NO tax in 1974.

3,273 individuals with over $50,000 AGI paid NO tax in 1974.

Both figures are higher than in 1969 when the minimum tax was introduced to insure some tax contribution by these high-income individuals.

The present $30,000 exemption and the deduction for regular taxes paid lower the present 10% rate to an effective rate of only 4% of preference income; these proposed changes generally would raise this effective rate to 8–12%.

The changes must be applied to corporations to maintain the present equality of minimum tax treatment between individuals and corporations.

MAXIMUM TAX

House bill—

Contains no provision changing present 50% maximum marginal rate on earned income.

Finance Committee bill—

Provides that 50% maximum marginal rate will apply to unearned income (dividends, rents, royalties, etc.) equal to the amount of the taxpayer's earned income (subject to an upper limit of $100,000).

Revenue loss is $49 million in FY 1977 and $600 million in long run.

Proposed floor amendment—

Deletes SFC action applying maximum tax to unearned income.

Retains maximum tax on earned income.

Need for proposed floor amendment—

Maximum tax only benefits the top 1% of income individuals—generally those with over $50,000 of AGI.

Present maximum tax provides a $660 million benefit to this group; it should not be expanded.

Maximum marginal rate should not be reduced for dividends and interest of highest income individuals in country until tax burden of low- and middle-income wage earners is lightened.

TAX SHELTERS

House bill—

Adopted Limitation on Artificial Losses (LAL) as proposed by Treasury in 1973.

Requires that accelerated deductions from an investment be used only against income produced by the investment (under present law accelerated deductions can reduce or eliminate the tax on other unrelated income).

Applies to tax shelters in real estate, oil and gas, farm operations, movies, equipment leasing, and sports franchises.

Increases revenues by $490 million.

Finance Committee bill—

Rejects LAL.

Adopts a few anti-tax shelter provisions.

Increases revenues by only $165 million.

Proposed floor amendment (effective January 1, 1976)—

Adopts House LAL rules except that LAL would not apply to residential real estate.

Increases revenues by $422 million.

Need for proposed floor amendment—

Tax shelters are major avenue by which high income individuals reduce taxes to zero or near zero.

Tax shelters distort market economy:

Artificially drive up prices of farm land;

Contribute to boom and bust cycles;

Drive capital away from sound ventures into marginal ventures where profit is produced by tax benefits;

Create unfair competition for legitimate real estate developers, farmers, etc., who have to make *real* profit—not tax profit—to survive.

Tax shelters involve an enormous waste of federal funds—as much as 35–40% of federal tax benefits are diverted away from the legitimate business for which the tax incentives were provided—real estate developers, oil drillers, etc.—to doctors, movie stars, dentists, professional athletes, corporate executives, and their lawyers and accountants.

Tax shelters destroy taxpayer morale since their benefits are available only to 50% or higher bracket individuals—who represent only 1% of Americans.

DISC

House bill—

Retains DISC (which allows tax to be deferred—and virtually exempted—on one-

[1] Revenue figures are for fiscal year 1977, unless otherwise indicated, and represent gains or losses from current level.

half of qualified export income) on incremental basis.

DISC benefits would apply to export sales income in excess of 75% of the average of a three-year base period (1972–74 initially, becoming a moving base period in 1981).

Allows full DISC benefits for small businesses.

Repeals DISC for agricultural and military export sales.

Raises revenue by $450 million (repeals about ⅓ of DISC).

Finance Committee bill—

Adopts House incremental approach, but allows DISC benefits for export sales income in excess of 60% of average of three-year base period (three out of four years, 1973–76, which becomes a moving base in 1980).

Retains full DISC for agriculture until 1980, incremental thereafter and allows incremental DISC for competitive military sales.

Provides small business exemption.

Raises revenues by $84 million in FY 1977 and $400 million in first full year (repeals about ¼ of DISC).

Proposed floor amendment (effective January 1, 1976)—

Retains DISC for incremental export sales in excess of 75% of average of a 3-year base moving period (three out of four immediately preceding years).

Applies to agricultural sales.

Repeals DISC for military export sales.

Retains DISC for small businesses.

Raises revenues by $500 million in FY 1977 (similar to House bill initially, but stronger in long run).

Need for proposed floor amendment—

DISC was designed to aid U.S. exports in a world of fixed exchange rates; that world no longer exists and DISC involves a significant waste of money.

A major part of tax benefits go to foreign consumers.

DISC means that goods produced for American consumption are taxed more heavily than goods produced for foreign consumption.

DISC's are just paper corporations that only exist in a file drawer—there is little persuasive evidence that they provide a net increase in either jobs or exports.

Export profits of large multinations don't need a tax subsidy—their profits from export sales are 17.3% before taxes, more than double the profits for domestic sales.

DISC is a windfall to the largest multinational corporations in the U.S.—over ½ the DISC benefits went to 59 companies, all with assets in excess of $250 million.

The fat should be taken out of DISC so that its benefits are available only to companies that are increasing their exports and to small businesses.

TAX DEFERRAL FOR U.S. CONTROLLED FOREIGN SUBSIDIARIES

House bill—

No provision.

Finance Committee bill—

Deferral benefits denied for corporations paying foreign bribes or boycotting Israel.

Proposed floor amendment (effective January 1, 1977)—

Earnings and profits of U.S. controlled foreign subsidiaries would be taxed currently to the U.S. parent after a year transition period (i.e., deferral would be repealed completely after 1981).

50% of earnings would be eligible for tax deferral in 1977, with this figure reducing by 10% each year thereafter.

Foreign tax credit would be fully available.

Earnings and profits of all controlled foreign subsidiaries would be consolidated.

Increases revenues by $25 million for FY 1977; $250 million in long run.

Need for proposed floor amendment—

Tax deferral provides an incentive to U.S. companies to locate abroad, thus costing jobs for U.S. workers.

Tax deferral provides an incentive to U.S. companies to invest capital abroad thus depriving the U.S. of badly needed investment capital.

Tax deferral promotes international tax avoidance.

The existence of tax deferral is used to justify the continuation of DISC.

EXCESS FOREIGN TAX CREDITS FOR OIL OPERATIONS

House bill—

No provision.

Finance Committee bill.—

No provision.

Proposed floor amendment—

Prohibits oil companies from claiming foreign tax credit in excess of US 48% rate.

Authorizes Treasury to deny foreign tax credits where payments in fact constitute royalties.

Increases revenues by $25 million in FY 1977 and $60 million in long run.

Need for proposed floor amendment—

Many arrangements between multinational oil companies and foreign oil producing countries are actually royalties rather than taxes.

The foreign tax credit should not be available for such payments.

In cases where the payment may be a tax, no credit should be allowed in excess of the US tax rate.

This will reduce incentive for oil companies to try to convert royalties into "taxes".

RETIREMENT INCOME CREDIT

House bill—

Reform and revision of the credit for the benefit of low and middle income elderly taxpayers.

Revenue loss: $340 million.

Finance Committee bill.—

Substantially same as House bill, except changes phased in over three years.

Revenue loss: $100 million in FY 1977; $270 million thereafter.

Proposed floor amendment—

Same as House Bill.

Revenue loss: $340 million.

Washington, D.C., June 9, 1976.

Hon. GAYLORD NELSON,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR NELSON: When the tax reform bill (H.R. 10612) comes to the Senate floor, scores of amendments—good and bad—will be offered, but organized labor has decided to concentrate on five key major reforms.

The current tax reductions that are slated to expire on June 30 have our support, and should be extended thru fiscal year 1977, including the individual tax credit which the committee bill would end on June 30, 1977.

Further, if we are to prevent a heavier tax load from being shifted from the corporations and the wealthy to the backs of working Americans, major reforms must be added on the Senate floor.

The AFL–CIO urges your support for the following key tax reform amendments:

1. An end to deferral on taxes of the profits by U.S. multinational companies abroad. At present, these firms can keep their foreign profits untaxed as long as they remain abroad. Companies use these funds to expand their operations abroad, instead of here. This "subsidy" in the law costs the U.S. millions of dollars in taxes, and hundreds of thousands of jobs. Repeal will end this loophole. We urge you to support Senator Vance Hartke's amendment.

2. A limit to the foreign tax credit now used by U.S. multinational corporations. This "subsidy" also costs taxes and jobs. The amendment to be offered by Senator Hartke will limit the tax credit for oil and gas to the statutory tax rate of 48% There is no rational justification for any higher rate. The amendment will also deny foreign tax credits which are clearly royalties.

3. Restoration of the House-passed limitation on tax shelters (LAL). This provision has now been weakened in the bill before the Senate. The House-passed bill would limit the opportunities for wealthy Americans, doctors, dentists, and executives "paper" losses in real estate, leasing, movies, and sport franchises to avoid taxes on the income from their regular line of work. A specific exemption would apply to investments in residential real estate.

4. Strengthening of the minimum tax. This provision is a catch-all that is designed to extract a minimum amount of tax money from the wealthy who have used various tax gimmicks to avoid the normal rules of taxation. The provision would exempt the first $10,000 of preference income and levy a tax of 15%.

5. A further step toward the repeal of DISC. The export subsidy has provided virtually no jobs at a cost of $1.5 billion per year. It should be ended. An amendment will be offered to strengthen the incremental requirement of the committee bill.

These amendments will be a major thrust of tax reformers on the Senate floor. Together they will raise millions of dollars, they will help save U.S. jobs and help economic recovery.

These amendments are compromises; they are steps toward genuine reform of the tax code. Your support is most important to the working men and women of America.

Sincerely,

ANDREW J. BIEMILLER,
Director, Department of Legislation.

STATEMENT OF LEONARD WOODCOCK, PRESIDENT, UNITED AUTO WORKERS ON TAX REFORM

The pervasive loss of confidence among the American people in governmental institutions is a threat to the strength of our democratic traditions. One of the major causes of the lack of confidence is the unfairness of our tax system, with its myriad provisions favoring the wealthy at the expense of the fundamental principle of equity and a tax code based upon ability to pay.

The outrage felt by working people, hard pressed by a combination of disproportionate tax burden and high rate of inflation in recent years, now threatens the public programs that are essential to meeting the needs of the American people. Ordinary taxpayers just do not believe they are getting their money's worth from their tax dollars—and they are right.

The tax bill passed by the House is a modest step in the direction of tax reform. Such reform is one of the necesary elements in restoring public confidence in our institutions. By supporting amendments to the Finance Committee bill restoring the modest reforms of the House version and making multinational companies pay a fairer share, the Senate will have an opportunity to go on record in favor of strengthening our democratic institutions and public confidence in government.

The UAW strongly urges the Senate to do so.

COMMON CAUSE,
Washington, D.C., June 16, 1976.

DEAR SENATOR: Common Cause supports Senators Nelson, Hollings, and a bipartisan group of twelve other Senators in their effort to amend the tax cut bill, H.R. 10612, to bring it into compliance with the terms of the Congressional Budget Resolution, which requires the Senate to raise $2 billion this year from tax reform.

Even though the Finance Committee was

obligated, under the Congressional Budget Resolution, to raise $2 billion in government revenues from tax reform, the Committee disregarded this mandate. It dismantled even the modest reforms in the House-passed bill, and then went on to add hundreds of millions of dollars in new tax breaks for special interests. Under the pretense of attempting to comply with the $2 billion budget requirement, the Committee has cut back on tax cuts for the average taxpayer and postponed tax relief for retired persons. It has also delayed the effective date of some new tax favors so that the revenue loss will not occur until future years—in effect, mortgaging the future budgets of the nation.

The Nelson-Hollings package of reform amendments will raise the $2 billion in revenue mandated by the budget resolution by significant tax reform and not by measures that would deprive low and middle income wage earners and the elderly of sorely needed tax reductions.

It is imperative that the Senate pass the Nelson-Hollings package to maintain the integrity of the Congressional Budget process. Common Cause urges you to vote for these proposals.

Sincerely,

JOHN GARDNER.

[From Tax Reform Research Group, Washington, D.C.]

STATEMENT ON TAX REFORM

Public Citizen's Tax Reform Research Group strongly supports the efforts of Senators to introduce some real tax reform into the Senate Finance Committee's "tax reform" bill. After years of promises, the House passed a tax reform bill which can be considered a worthwhile first step in restoring public confidence in the equity of our tax system.

Thanks to intensive lobbying by oil, real estate, and exporting industries and the multinational corporations, the Finance Committee dismantled many of these reforms, while providing new tax breaks for the wealthy and influential. The Committee has cynically ignored its responsibility under the Budget Resolution to raise $2 billion through tax reforms. Instead, it has attempted to cover up its failure to raise revenues through reform by cutting back on needed tax relief for average taxpayers and the elderly.

We urge the full Senate to prove it is serious about tax reform by supporting this package. It will raise billions of dollars of new revenue from those who pay less than they fairly should. It will also provide enough revenues to continue the full tax cut for individuals and to give needed tax relief to the elderly. But the effort will succeed only if Senators begin to hear from average taxpayers, and not just from the special interest lobbyists who unduly influence our tax laws.

[From the National Council of Senior Citizens, Inc., Washington, D.C.]

STATEMENT OF THE NATIONAL COUNCIL OF SENIOR CITIZENS, JUNE 1976

The current concerns over fiscal responsibility should legitimately extend to the federal tax system as well as to government expenditures. This seemingly obvious proposition seems to have eluded the Senate Finance Committee, which is reporting out a tax reform bill which does not achieve an acceptable degree of sharing of tax burdens. In fact, it appears that fiscal responsibility is to be the burden of low and middle income workers and of the elderly. We deplore the results of the Finance Committee deliberations which are presented under the misnomer of "tax reform."

Minimum taxes, limitations on tax benefits, elimination of tax deferral provisions which favor exportation of jobs, limited DISC preferences, and limitation of the foreign tax credit for oil and gas—all would move in the direction of substantive tax reform.

The immediate extension of the retirement income credit is a matter of crucial concern and particular urgency, since the elderly have little time to wait.

We, therefore, urge support of the proposals by members of the Senate which include the above provisions. The integrity of the Senate and people's confidence in their government demands that significance be restored to the words "Tax Reform."

STATEMENTS OF ECONOMISTS ON TAX REFORM

As citizens and economists, our top priority goal for economic policy today is a reduction of the unacceptable level of unemployment and a return to non-inflationary prosperity that would enhance both living standards and investment throughout the economy. At the same time, we strongly believe that the nation's tax system should be improved by eliminating or reducing some of the most inequitable and inefficient tax expenditures.

We are convinced, moreover, that these two objectives—recovery of the economy and reform of the tax system—go hand in hand. Additional federal revenues raised from tax reform can be appropriately re-allocated to the economy, either through general tax reductions or strengthening high priority federal programs. By eliminating inefficient tax expenditures like DISC and tax deferral resources could actually increase overall employment, production and purchasing power in the economy, in line with the goals of the Employment Act of 1946.

In particular, we offer this professional judgment after having examined various arguments that have been set forth in support of the economic stimulus of tax shelters. These shelters operate as indirect, roundabout subsidies for special types of investment activity, in special forms available only to persons in the highest income brackets.

Such tax shelters are an inherently inefficient technique for stimulating investment. Better uses can be found for these tax subsidies, either in promoting investment or achieving other national goals.

Congress made a wise decision in adopting a budget resolution that envisioned $2 billion of revenues to be raised in fiscal year 1977 from reduction in tax expenditures. These reductions are an important component of the overall decisions in the budget resolution on the extension of the general tax cuts and the appropriate level of total Federal expenditures. We believe that the resolution is well designed to reduce unemployment and promote the nation's economic recovery, and we hope that Congress will follow through on this essential fiscal policy.

To this end, we are pleased to endorse the package of tax reform proposals that we understand will soon be offered by a number of Senators to strengthen the minimum tax, limit tax shelters, reduce the benefits of DISC, repeal the deferral of taxes on foreign income of U.S. corporations operating overseas, and reduce the foreign tax credit for oil.

Gardner Ackley, University of Michigan.
Harvey Brazer, University of Michigan.
George F. Break, University of California, Berkeley.
Wilbur J. Cohen, University of Michigan.
Otto Eckstein, Harvard University.
Robert Eisner, Northwestern University.
R. A. Gordon, University of California, Berkeley.
Walter W. Heller, University of Minnesota.
Lawrence R. Klein, University of Pennsylvania.
Robert Lekachman, Lehman College, CUNY.
Richard A. Musgrave, Harvard University.
Arthur M. Okun, Brookings Institution.
Joseph A. Pechman, Brookings Institution.
George L. Perry, Brookings Institution.
Paul A. Samuelson, Massachusetts Institute of Technology.
Charles L. Schultze, Brookings Institution.
James Tobin, Yale University.

EXHIBIT 2

AMENDMENT TO END TAX SHELTER SYNDICATES

Tax shelters do the most violence to the fairness of our tax laws. Tax shelters are the unintended result obtained by piling up tax preferences. When cash accounting was adopted to help the small unsophisticated farmer, it was never anticipated that city dwelling doctors and lawyers would use that cash method to avoid taxes on their medical and legal fees by buying into publicly syndicated limited partnerships involving rosebush or pistachio growing deals. Likewise, when Congress passed tax incentives for oil drilling or real estate construction, the intention was to increase the after tax rate return of these investments. Indeed, because of the generous tax treatment presently accorded these investments, both promise a relatively tax-free return on equity—a return that is generally quite attractive to normal investors. Tax shelters go beyond this "no tax" situation to actually produce a "negative" tax-promising not only tax free treatment of the investment earnings but additional tax write-offs to lower taxes on unrelated earnings.

Essentially, a tax shelter operates with artificial or accelerated tax write-offs. These artificial write-offs, instead of being applied against income from the investment, are applied to unrelated income—sheltering otherwise highly taxed salaries or professional fees. This mis-matching of income and artificial losses results in a deferral of taxes to a future year—in effect, an interest free loan from the Treasury.

These artificial deductions are usually expanded through the use of non-recourse loans. Leveraging produces large "losses" that reflect large investments even though the investor has no personal liability for most of his investment. When the investment is finally sold, the gain is often taxed at capital gain rates (half the ordinary rates) even though the losses sheltered ordinary income originally.

Tax shelters are unfair and undermine the average taxpayer's confidence in the tax system. Information published by the Ways & Means Committee taken from thirty-seven representative actual tax returns of high income individuals demonstrates the enormous tax avoidance aspects of tax shelter partnerships. To cite just one case: one individual with $427,000 of executive salary was able to shelter enough income from three syndicated real estate shelters and one farm shelter to reduce his federal income tax to 0.3%.

Tax shelters encourage wasteful investments:

Tax shelters are a wasteful and inefficient means of stimulating investment. First of all, many tax shelters, worth billions of dollars annually, are "packaged" by brokers who get commissions for their services. Some of the investment dollars, even if these activities were economically sound, are siphoned off by middlemen who receive a good deal of the tax expenditure money themselves. These marginal operators bid up the cost of goods, services and land, thereby damaging legitimate operators. Their investments are often poorly managed.

Secondly, because of the tax benefits of shelters, the investments don't have to be economically sound to be profitable to the high bracket taxpayer. Becaues of tax deferral, leverage, and capital gains rates, the investment can lose money, while still pro-

viding significant economic benefits to wealthy taxpayers. The operation of tax shelters therefore directs vitally needed capital into economically questionable investments.

Limitation on artificial accounting losses:

The Finance Committee bill partially curbs farm and movie shelters by disallowing leverage but leaves the two biggest shelters—oil and real estate—virtually untouched. The bill would raise only $75 million per year compared with $500 million per year raised by the House bill.

To end the abuse of tax shelters, the House enacted a Limitation on Artificial Accounting Losses (LAL) similar to that first proposed by the Nixon Administration in 1973. LAL in no way limits real economic losses. It allows accelerated write-offs (accelerated depreciation, and intangible deductions, for example) to offset income from the investments that generate those write-offs. Real estate, oil drilling and other investments currently receiving significant tax incentive will continue producing relatively tax free return from the investment.

LAL simply does not allow artificial write-offs to be used to shelter other income:

LAL must apply to all tax sheltered investments. Closing a few of the sheltering opportunities in agriculture and movies but ignoring the major ones—real estate and oil—will simply drive all high income individuals into the remaining shelters creating more waste and greater distortion. All shelters must be closed off.

Ending tax shelters will not affect the supply of capital:

The same capital will still be available. But instead of being misdirected by tax gimmicks into marginally productive promotional syndicates, it will flow into economically sound investments.

This amendment will end shelters by adding to the committee bill the LAL provisions passed by the House.

The amendment to strengthen the minimum tax on preferences or "loophole" income and to remove the maximum tax ceiling:

Even where there is no "sheltering" of other unrelated income as is the case with tax shelter syndicates, tax preferences themselves provide substantial tax free income for many wealthy individuals. The minimum tax was originally designed to place some tax on this "loophole" income but it has been notoriously ineffective. Persons who incur liability under the present 10% minimum tax pay such tax at an average effective rate of only 4.4%, and, in 1974, 873 persons with adjusted gross incomes over $100,000 (including 5 with million dollar incomes) managed to pay no regular tax and no minimum tax at all.

The committee bill raises the present 10% rate, but only to 15%—barely above the 14% statutory rate applicable to even the poorest taxpayer. So low a rate has no conceptual justification.

The bill doesn't even touch the most glaring deficiency of present law. The existing 100% deduction for regular taxes paid (the "Executive Suite Loophole") allows many wealthy individuals to escape minimum tax altogether by sheltering loophole income subject to the tax with regular taxes paid on ordinary income from e.g. an executive's salary. This deduction was never part of the minimum tax as originally proposed by the Treasury. It was added to the 1969 Tax Reform Act by an eleventh hour Senate floor amendment, and presently allows 55% of those otherwise liable for minimum tax to avoid paying any minimum tax whatsoever. It presently shelters income of more than 2.5 billion dollars that would otherwise be taxable at a minimum rate. The fact that a taxpayer might pay regular taxes on other income, just like everyone else, does not justify complete non-taxation of loophole income. The minimum tax should impose a minimum tax on loophole income, and this can be achieved only by completely eliminating the deduction for taxes paid.

The "taxes paid" deduction will perpetuate the popularity of tax shelter syndicates. For example, a single person with taxable income of $150,000 might use syndicated tax shelter write-offs of $50,000 to reduce his taxable income to $100,000. Because he will owe a tax of $53,000 on this taxable income, he will owe no minimum tax at all on the $50,000 which he has sheltered. Paying taxes on some of your income thus becomes a "license" to avoid taxes on the rest of your income.

The committee bill adds a few items to the list of tax preferences subject to the minimum tax, notably non-business interest deductions and oil and gas intangible drilling deductions. However, drilling deductions are taxed only to the extent they exceed all of the taxpayer's income from the oil and gas business. Thus, most people in the oil and gas business are untouched, and the provision (not surprisingly) is expected to raise less than $5 million.

Existing law applies the minimum tax to corporations as well as individuals. Each tax currently raises roughly $250 million. However, the committee bill strengthens only the tax on individuals—making no change in the avenues of tax avoidance presently available to those who set up corporations.

In order to disguise the bill's weakness the committee extended the number of people subject to the tax. The House bill exempts preferences of less than $20,000 and thus applies to only the 120,000 people who have preferences above this amount. This tax will average $10,000. It will add another $1.1 billion to existing minimum tax revenues of $250 million. The Senate bill taxes preferences above $5,000 and thus affects 550,000 people. It will add revenues of $1 billion. But their tax will average $2,000.

Perhaps the most transparently uncalled for provision in the committee bill is the "maximum tax" limit—the reduction in the maximum rate of tax on up to $100,000 of non-earned income (dividends, rents and royalties) to 50% from the existing 70% rate. Only if a broadsweeping effort were made to purge the tax code of most of the preferential write-offs and exclusions, etc. which now foster tax avoidance and drastically lower the effective overall rate actually paid could such a rate cut be justified. It should be noted that existing law was amended in 1969 to cut the tax rate on salary income to 50% but this has not discouraged people from seeking further tax savings by investing in tax shelters. Syndicate sales have continued to grow steadily. Yet the ludicrous claim is made that the committee's action is the best way to curb tax shelter syndicates.

The provision is a $270 million gift to 250,000 people who are among the wealthiest one percent of all taxpayers. A single taxpayer with taxable income of $200,000 presently paying $123,090 would receive a tax savings of $28,800. Of course, he may also have untold amounts of untaxed preference income.

This amendment makes oil drilling deductions subject to the tax, eliminates the deduction for regular taxes paid, boosts the minimum tax rate and removes the 50% maximum tax ceiling.

Amendment to end the windfall in the Domestic International Sales Corporation (DISC) export tax subsidy:

DISC has been acknowledged to be a wasteful and unneeded export tax subsidy by staff studies by OMB and the House Budget Committee and the weight of testimony from independent tax experts. A recent Treasury report which reached a heavily qualified conclusion that DISC boosts U.S. employment has been declared by a Library of Congress study to be subject to so many questionable economic assumptions and dubious procedures as to be worthless.

DISC was enacted in 1971 to allow small U.S. manufacturing companies to set up export subsidiaries to encourage the export of American goods and create more jobs. The encouragement is in the form of indefinite tax deferral (in effect tax-free income) on one-half of the profits of the subsidiary. For DISC to encourage exports, companies would have to use the tax break to lower their prices to become more competitive worldwide. Unfortunately, the expensive tax subsidy has not worked.

First, DISC has done little to stimulate exports. Several independent studies have concluded that DISC at a cost of $1.5 billion increased exports by about $250 million in 1972 and 1973; more favorable data supplied by DISC companies indicates increases of $400 million to $1 billion. In any case, the increase is less than 1% of total U.S. exports.

Exports increased from $47 billion in 1972 to $73 billion in 1973 and $98 billion in 1974, but this was primarily due to a devaluation of the dollar, which made U.S. exports much cheaper abroad. Based on Treasury Department figures, DISC tax breaks, even if completely passed on, provide only a 1.7% decrease in DISC export prices (one-half DISC tax deferral times 48% corporate tax rate times 7.2% average DISC profit margin on sales) this compares with a 28% reduction in the value of the dollar vis-a-vis the West German Mark. Curbing our domestic inflation and boosting productivity are also more important factors than DISC.

Common sense would also dictate that much of the exports under DISC would be sold anyway, because these U.S. products are in great demand worldwide (items such as computers, jumbo jets, grain, fighter planes, nuclear reactors and other utility plants, oil drilling equipment and large household appliances among others). In these areas as well as others where American companies have a relatively monopolistic position, DISC benefits need not go into lower prices but have undoubtedly simply increased corporate profits at the expense of the Treasury. Indeed, Treasury reports show that the before-tax profit margins on exports average about twice as high as profit margins on similar goods sold in the U.S. (17.3% vs. 8%).

Second, DISC is a bad bargain for creating jobs. The House Budget Committee staff study estimates, using Bureau of Labor statistics, that the $400 million increased exports (even if due entirely to DISC) created 15,000 new jobs in 1974. If the $1.5 billion in DISC lost revenues were used in other federal expenditure programs, many more jobs could probably be created: 112,000 jobs in defense or 120,000 jobs in health, or 150,000 jobs in education, or potentially 240,000 public service jobs or 90,000 jobs if used to cut corporate taxes from 48% to 46%.

Third, even assuming DISC increases exports, in a world of floating exchange rates, DISC makes little sense. Since increased exports drive up the value of the dollar relative to other foreign currencies DISC makes imports cheaper, thereby increasing them and displacing jobs here at home. The irony here is that imports tend to consist of more labor intensive products (autos, clothing, and shoes), while exports consist of less labor intensive products (computers, ball bearings, etc.)—the result may be that DISC displaces more jobs than it creates.

Finally, DISC benefits go primarily to giant corporations to pay them to do what they would do anyway. Seventy-five percent of DISC income accrues to corporations with assets in excess of $100 million, and in fact, 39% goes to just 29 corporations. These firms

tend to be already well established in the export field.

The Committee professes to remedy this latter problem by applying the tax breaks only to profits resulting from the net increase in export sales over previous years. However, the base period level is arbitrarily defined as 60% of the average sales in any 3 of the 4 years, 1973, 1974, 1975 and 1976 with this low base remaining constant for 2 years and then moving up one year each year beginning in 1979. This proposal lacks any conceptual justification other than placating DISC recipients and in 1977 will reduce the $1.5 billion cost of DISC to the Treasury by only about ⅓ or $450 million.

If DISC is retained for actual increases in sales, the more realistic approach would be to use 100% of the average for the immediately preceding three years. This would cut the cost of DISC by about 2/3 or $1 billion in 1977, and would raise an almost 4 billion dollars more than the committee bill through 1981.

Inexplicably, the Committee bill grants favored treatment to exporters of agricultural products by postponing the effective date until 1980. Almost all of the $50 million in annual benefits from this postponement go to about a halfdozen exporters, such as Cargill. By contrast the House bill makes agricultural products totally ineligible for any DISC benefits—even under the incremental approach since price reductions play a minor role in the sale of grain and other produce. Including agriculture is simply a windfall for a few large exporting corporations.

Similarly, the House bill totally repeals DISC for military sales but the Committee bill retains DISC where competition is determined to exist with foreign suppliers. How this determination is to be made is not clear. It makes no sense to provide a tax subsidy costing up to $50 million per year to promote arms exports (now totaling about $10 billion annually).

This amendment will remove the exceptionally favorable treatment for agricultural exporters, repeal DISC for military sales and allow DISC only for actual increases in sales.

Amendment to end the deferral of taxes on the foreign earnings of U.S. multinationals!

Tax breaks enjoyed by multinational corporations have lowered their tax burden while driving jobs and capital overseas. At a mimimum our tax laws should have a neutral impact on the decision of whether to invest job creating capital in the U.S. or abroad.

The credit for foreign taxes (as distinct from oil and mineral royalties) paid to foreign countries might be argued to achieve neutrality by avoiding double taxation. However, deferring U.S. taxation until earnings are actually brought back to the U.S. and reinvested here tips the balance in favor of investing abroad.

U.S. multinationals have invested over $160 billion overseas for plants and equipment since 1958. In 1974 alone, they spent $25.8 billion abroad, a sevenfold increase in 14 years from the total of $3.8 billion in 1960.

Some claim that to change the laws would unduly penalize U.S. firms, and that other nations give their multinational firms total freedom. Such is not the case. Other major industrial nations regulate the operations of their multinational corporations through government policies and institutional pressures—thus restraining their opportunities to move abroad. Japan closely screens foreign investments, France has foreign exchange regulations and national planning, Sweden requires central bank approval and Britain closely supervises capital flows and has national planning.

Of course some operations must, by their very nature, or because of foreign non-tariff trade barriers be conducted abroad. But the tax laws should be neutral in this determination. Repeal of deferral will remove the disinclination of U.S. multinationals to press for the right to service foreign markets from U.S. facilities.

Several studies from limited, self-serving corporate samplings have been used to defend foreign investment.

For example, an internal survey of 111 selected U.S. multinational manufacturing corporations conducted by Business International Corporation—a front for multinational businesses—shows that these firms expanded U.S. employment by 3.3%, between 1970–1973 while the rest of U.S. manufacturing was expanding only half as fast. But it takes the biggest, most financially secure firms, including their mergers and acquisitions, and compares them to the rest of the U.S. manufacturing.

More importantly, the firms expanded their employment in the U.S. by 90,283 jobs in this four year period for a 3.3% increase, while the foreign subsidiaries of these same 111 firms increased their employment by 360,373 jobs during the same period, a growth of 31.5% abroad.

A study done in 1975 by Professors Frank and Freeman of Cornell for the U.S. State Department indicates that the U.S. could have had over one million more jobs between 1966 and 1973 if U.S. multinationals had attempted to serve foreign markets from American production sites instead of from their foreign subsidiaries with the aid of U.S. tax breaks.

The Frank and Freeman study argues that, in the long run, the large-scale export of American technology, managerial skills and capital amounting to more than 20 percent of annual domestic corporate capital formation in recent years, may: contribute to a decline in the nation's productive capacity and productivity; and contribute to a neglect of domestic investment opportunities.

They also conclude that most foreign investment directly displaces domestic investments.

A 1975 study by Professor Peggy Musgrave concluded:

"In the long run, perhaps the major effect of foreign investment is through its impact on domestic capital formation in the U.S. To the extent that domestic capital formation is displaced, foreign investment will reduce the level of income originating within the U.S. as well as the labor share in national income . . ."

"The private net rate of return from foreign investment lies above the national net rate because foreign taxes paid on U.S. investment income received abroad are lost to the U.S. economy. Our estimates show the national net rate of return from foreign investment to be negative."

Economists Robert Gilpin and Paul Samuelson have noted that the U.S. is tending to emulate Britain by becoming a rentier economy—one which lives off foreign investment income—thereby incurring numerous risks such as expropriation in the future.

In 1974, $53.6 billion of U.S. foreign-source income generated only $1.7 billion U.S. income tax payments. That's an effective U.S. rate of less than 3.2 percent—down from the 7.5 percent collected in 1968 and the 5.0 percent paid in 1972. Repeal of deferral will yield estimated tax revenues of about $350 million. The availability of the foreign tax credit will clearly negate any conceivable claim that repeal of deferral will unduly burden commerce. It is important to note that compromise proposals to repeal deferral on 50% of earnings may yield as little as $50 million since they will permit some highly technical avoidance techniques.

Widely professed concern over the adequacy of capital formation should prompt immediate repeal of deferral. This amendment will repeal deferral.

Amendment to end the abuse of excess foreign tax credits used by oil, gas and mineral companies:

Many contend that foreign tax credits are a proper means of preventing double taxation. But it is clear that some of the "taxes" paid to foreign governments by oil and mining companies are actually mineral royalties. Below is a comparison of "taxes" paid to the U.S. and foreign governments by eight oil companies:

[Millions of 1974 dollars]

Name of company	U.S. Federal	Foreign
ARCO	56.6	377.4
Continental	62.1	493.6
Exxon	623.0	7,734.0
Gulf	190.0	2,600.0
Mobil [1]	[2] 400.0	[3] 2,000.0
Standard Oil (California)	[4] 100.0	648.0
Standard Oil (Indiana)	309.5	410.0
Texaco	45.4	1,186.5
Total	1,786.6	15,449.5

[1] Mobil does not segregate U.S. taxes paid.
[2] Not over.
[3] Over.
[4] Under.

The total credits for all petroleum companies in 1974 was $23.5 billion of which $10.3 billion represented excess credits (not needed to reduce U.S. taxes).

Several oil companies have incorporated their tanker subsidaries in Liberia and other tax haven countries. Theoretically, these companies would owe no taxes to the tax haven but would owe a 48% tax to the U.S. However, excess tax credits from, say Saudi Arabia are used to offset any U.S. taxes which might otherwise be owing when shipping profits (untaxed in Liberia) are brought back to the U.S. In 1974, one major oil company was able to shelter several hundred million dollars in shipping profits in this manner.

This abuse can be curbed by not permitting credits in excess of the U.S. corporate tax rate (48%) in any one country, such as Saudi Arabia, to be used to reduce the U.S. taxes on income from any other foreign country. The 1975 Tax Reduction Act took a large step in this direction with respect to oil companies, but as a matter of compromise set the limitation at 52.8% in 1975, 50.4% in 1976, and 50% in 1977 and thereafter. This amendment would lower the limit to 48% in 1977 and extend it to cover all other mining companies who claim disguised royalty payments as taxes. Doing so would raise over $100 million annually.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania seek recognition?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized for not to exceed 15 minutes.

MANAGEMENT AND POLICY STRIKE FORCES

Mr. BARTLETT. Mr. President, today I introduce what I consider to be exciting legislation directed to one of the major concerns of the people of this Nation—the need for efficiency and economy in the operation of our Federal Government, the need to operate the Federal Government within our means, the tax revenues.

This issue, though certainly timely, is not exactly a novel one. More than 25 years ago the public's demand for economy in Government led to the creation of the first Hoover Commission, established to develop means of cutting the cost of Government and improving the delivery of services. According to the Library of Congress estimates, the Commission's efforts resulted in actual savings of $2 billion, which in today's dollars would be $4.66 billion. This savings represented a 4-percent reduction in the Federal Budget for fiscal year 1951. In 1953 a second Hoover Commission produced further economies.

I applaud the work of the two Hoover Commissions and I believe the time has come for another comprehensive effort of a similar, but improved, approach. However, in the years since these commissions were active, significant changes have occurred. The Federal Government is bigger, the problems of inefficiency and waste more complex, congressional oversight impossible and ineffective, and the bureaucracy is more impervious to reform. The challenge as well as the potential benefits are much greater.

I do not believe this challenge can be met solely by those within Congress, the administration, or the bureaucracy. To some degree the success of the original Hoover Commissions was impaired by such members of Government who were responsible for creating the problems, and who frequently supported the status quo rather than much needed change or reform. What is needed today is a program providing a study of the Federal Government from the outside by knowledgeable and dedicated people with no vested interest in government itself, but a keen interest in better government through efficiency, economy, and competent policies. The study must be conducted in a manner which will insure that the public remains knowledgeable, and thus insistent on the success of the program.

Mr. President, the legislation I introduce presents such a program. It is based on a management and policy study concept already well tested and proven at the State government level.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an article published in the May 1976 issue of the Reader's Digest, entitled "They Are Trimming the Fat From State Government."

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. BARTLETT. I also ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. BARTLETT. I can personally attest to the value of this approach which was utilized by the State of Oklahoma when I was Governor. In 1967 State government expenditures in Oklahoma, exclusive of Federal funds, had increased from $269 million in 1957 to $455 million in 1966, an escalation of 69 percent. During this same period, State population rose only 8.8 percent. This jump in spending was more than eight times greater than population growth. Thus, the need to implement the most effective operating methods was a matter of prime importance. This became the main objective of the Oklahoma Management Study Committee. This private sector group conducted a study of our State government without cost to the State. The project was initiated by executive order and Warren King and Associates was retained by the task force as their consultants.

Guided by a 1½-man consultant team, the 52-man Oklahoma committee worked full time over a period of 6 months, carefully reviewing the operation of 36 departments, agencies, boards and commissions of State government employing approximately 26,000 people. Emphasis was placed on developing specific, practical operating methods. This resulted in the formulation of 399 cost saving recommendations, most of which could be implemented administratively. Total implementation would have provided a net annual savings of about $46 million—10 percent of the total budget, plus a one-time savings of over $4 million.

Actual annual savings of $21 million—5 percent of the State budget—were attained by implementing completely or partially 297 recommendations. As Governor, I implemented 88 percent of these recommendations through administrative action. The remaining 12 percent were implemented through legislation, an excellent record considering that four-fifths of the legislature were members of the opposing political party. In addition to the savings achieved, the caliber of the services provided by the State were significantly improved.

In the late 1960's and early 1970's management and policy commissions were utilized by 26 States. In some States these commissions were called Little Hoover Commissions or Governor Task Forces. By implementing 40 to 60 percent of the recommendations through administrative action and 20 to 25 percent through legislation, the States conserved a total of $5.5 billion, and improved the efficiency of government beyond measure.

In early 1975 Congress enacted legislation to establish the American Indian Policy Review Commission. That legislation contained my amendment authorizing a management and policy strike force to review the Bureau of Indian Affairs, the agency responsible for administering the vast majority of programs that benefit Indian people. This review has just begun and will, I believe, chart a dynamic course for the future of the Bureau of Indian Affairs as well as serve as a model for the legislation I am introducing today.

The legislation employs a concept more far reaching and effective than the successful Hoover Commission, the concept thoroughly tested and proved in most of the States, including large ones such as California, Ohio, and Pennsylvania. The bill would establish an office responsible for the coordination of a number of independent management and policy study task forces known as Management and Policy Strike-Forces—MAPS. This coordination office will consist of seven members: the President, the Comptroller General, the Director of the Office of Management and Budget, two members of the House appointed by the Speaker of the House, and two members of the Senate appointed by the President pro tempore of the Senate.

The coordination office will act initially to divide the Federal Government into functional, structural, or other conceptual areas such as departments, units, agencies, bureaus, boards, commissions, offices, or operations, so that the structural and functional operations of the Government may be identified and subjected to a management and policy study by an appropriate MAPS.

Having decided upon a targeted area for review, the coordination office will then appoint three commission members to the MAPS assigned to that area. In this legislation I have taken certain steps to insure that the members of each MAPS are independent of the bureaucracy they have been chosen to review. No person may serve as a board or task force member of a MAPS who is serving or has previously served as a Member of Congress, or who is employed by the Federal Government or has been employed by the Federal Government at any time during the preceding 5 years.

I have also taken steps to insure that this legislation does not create positions for professional MAPS members. Board and task force members of the MAPS serve as unsalaried volunteers, receiving compensation only for expenses incurred by their service. No more than one member of a MAPS may have served on another MAPS, and no person may serve on more than one MAPS at a time.

Basically, the function of each MAPS is to direct the management study of administration and policy of the particular area of Government to which it was assigned. With one member serving as chairman, the three-member strike force shall recruit staff personnel including a salaried executive director responsible for the administration of the commission. They shall contract with professional experts in the field of management study for the operation of the management and policy study. They shall under specific direction of the legislation, recruit and utilize, to the fullest extent, the volunteer services and skills of capable and qualified individuals from the business community, the academic community, and elsewhere in the private sector.

The legislation describes the management studies of administration and policy as in-depth analyses "to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, instrumentalities, and authorities of the Government, by proposing such reforms which will have the effect of: first, limiting Government expenditures to the lowest possible amount

consistent with the efficient performance of essential functions; second, limiting duplication and overlapping functions; third, consolidating functions of a similar nature; fourth, abolishing functions obsolete or unnecessary to the efficient conduct of Government; and fifth, defining and limiting those functions, services, and activities which are appropriate to the executive, legislative, and judicial branches."

The MAPS have the power to subpena witnesses and information from the Government, as well as the power to conduct research necessary to their study upon their own initiative. Upon completion of such an analysis, the MAPS will submit a report of its findings, conclusions, and policy and administrative recommendations including proposed legislative changes, to the coordination office for dissemination.

Mr. President, other attempts to review the operation of the Federal Government to bring about reforms have failed, but this one will not. Its success is assured by the unique weekly reporting procedure provided by the strike forces, a procedure which guarantees that the press and public interest will be sustained, and that public insistence for reforms will not be ignored.

Prior to completion of their final analysis, the MAPS shall issue interim reports or updates on its study, a reporting procedure which proved invaluable to our effort in Oklahoma, in which the interim reports were generally issued at weekly press conferences. With the failings or shortcomings of Government policy or procedure thus exposed to the critical eye of the press, the public is kept well informed; the high visibility provided by the press plus the resulting public pressure are together able to penetrate the barriers of the bureaucracy, the administration, and Congress. In the case of Oklahoma many tentative suggestions outlined at a weekly press conference were put into effect administratively long before the final report was completed.

Upon final completion of its study the MAPS shall submit a report of its findings, conclusions, and recommendations, including legislative changes, to the coordination office for dissemination. The MAPS shall dissolve within 60 days after submitting its final report.

The authority of the coordination office shall be limited to the dissemination of the MAPS report, and the coordination office is specifically denied authority to accept or reject, amend, suppress, or otherwise act upon the report of the MAPS. In essence, the coordination office is a clearinghouse for the reports of the MAPS.

The goal of each MAPS is to achieve at least a 5-percent conservation in the cost of the Government function it has studied. Considering that most of the average States saved 5 percent of their annual budgets of State dollars and that the Federal Government has been more profligate in its spending than States, it can be argued that an 8-percent savings in the Federal budget is reasonably achievable. Therefore, I consider a 5-percent savings a realistic goal. In terms of fiscal year 1977 dollars, this could result in a total savings of $20 billion, or a 40-percent reduction in the deficits. There are also many intangible benefits of such a study, measured in terms of active management participation, improved working climate, better morale among Government employees, and greater public confidence in Government.

I urge colleagues to examine closely the legislation I am introducing and to join with me in this dynamic, promising, and proven approach to efficiency and economy in the Federal Government.

EXHIBIT 1

[From the Reader's Digest, May 1976]

THEY'RE TRIMMING THE FAT FROM STATE GOVERNMENT

(By Trevor Armbrister)

By December 1974, Wisconsin's Division of Motor Vehicles (DMV) was disastrously behind in its work, and citizen complaints were mounting. It took eight weeks to process auto-title registrations—with a backlog of more than 50,000. Gov. Patrick J. Lucey decided to call for help from the business community. Allen A. Sieczkowski, a 28-year-old budget manager for the J. C. Penney Co. in Milwaukee, accepted the challenge.

Studying procedures at the DMV main office in Madison, Sieczkowski found administrative disorder and a crying need for modernization: "They had buried themselves under a mountain of red tape." Drawing on his own experience, the young businessman recommended solutions. There were far too many steps in the processing; cut some of them out. Applications were processed manually; a computer could do the work more efficiently. Job assignments should be more clearly defined; DMV employes agreed. By December 1975, the office work load had been substantially reduced, the backlog had disappeared, and processing time had been slashed to ten days.

Quietly, without fanfare, businessmen all across America are volunteering their skills to help state governments cut costs and perform more efficiently. The names of these programs, and their accomplishments, vary from state to state. Yet, over the past dozen years, they've saved taxpayers an estimated $5.5 billion. The contribution has been costly to the firms which pay the salaries of businessmen spending time away from their own jobs. But by helping state governments function more smoothly, they've created a healthier business climate, and that in the long run has been a more than adequate reward. Dr. Richard T. Tesher, president of the U.S. Chamber of Commerce, stresses, "Businessmen have a big stake in helping government get along on less."

BETTER WAY

The 1960s witnessed a disturbing, accelerating trend all across the United States. While state populations increased only slightly—most by less than 15 percent—state payrolls ballooned. Government at the state and local level became one of the fastest growing "industries" in the country and, as demands for services multiplied, expenditures began climbing out of sight. Raising taxes provided only temporary relief.

When James A. Rhodes took office as governor of Ohio in 1963, the state, despite increased taxes, had unpaid bills of more than $100 million. Unemployment was high and rising rapidly; corporations were moving out of state. What was needed was a total reorganization of Ohio's state government.

State finance director Richard Krabach remembered how a blue-ribbon commission headed by former President Herbert Hoover had once probed the federal government's efficiency. Couldn't similar scrutiny be directed at state government? Krabach consulted with Hoover in New York, then sought further advice from Warren J. King, president of Warren King and Associates, a Chicago-based consulting firm. Quickly, the two men drew up ground rules: It would not suffice to "borrow" executives one or two days a week. They would have to recruit the best talent in the state, on a full-time volunteer basis, until the job was done. Governor Rhodes enthusiastically issued an executive order establishing the Council for the Reorganization of Ohio State Government.

At a meeting of the top executives of two dozen Ohio firms, Krabach called for volunteers. "We're not looking for checkbook patriotism. What we want from your companies is talent. And not just anyone; we need the people you can't spare."

"Who do you want from me?" asked Alfred S. Glossbrenner, then president of Youngstown Sheet & Tube Company.

"Howard Bishop, your chief industrial engineer."

With Bishop as their chairman, 94 Ohio businessmen studied every department of state government. Three months later, they presented 511 recommendations—to save Ohio taxpayers $50 million a year. Reforms included abolition of specific jobs, such as that of the employe whose duty it was to measure the depth of the Toledo-Cincinnati canal—which had been closed for 63 years. Other recommendations called for application of modern business techniques, and even consolidation of whole overlapping agencies. Rhodes implemented nearly 75 percent of the recommendations. Actual annual savings were $60 million—or $10 million above the estimate—and for the next five years Ohio led the United States in its rate of industrial growth.

COST-CUTTERS AT WORK

Encouraged, consultant King took the idea to other states' chief executives. In 1965, Gov. Dan Evans of Washington agreed to give the concept a try. Ninety of that state's top business executives hammered out a report with 670 recommendations. Two-thirds of these were implemented, to save some $20 million per year. Oklahoma businessmen suggested 399 ways to streamline their state's government; 250 of them were okayed, for annual savings of $15 million.

Then, in 1967, Gov. Ronald Reagan of California asked King to coordinate a study in his state. The 252 "loaned executives," divided into seven teams, weighed in with 2000 suggestions. These enabled Reagan to cut spending by $175 million a year.

By 1976, some 20 states had asked King to coordinate management reviews of their governments. More than 1500 businessmen had participated. They offered 14,500 suggestions which could, if put into action, save taxpayers a monster $4.8 billion. (Encouragingly, a large number of those suggestions came from state employes themselves.) Meanwhile, other states—including Missouri, Minnesota and Wisconsin—had instituted programs of their own, and savings there over the years had run into the hundreds of millions.

In almost every state, cost-cutters discovered that government could become more efficient by:

Restructuring agencies to provide services more efficiently. During the 1960s, West Virginia's welfare rolls had increased dramatically. Thus, when Gov. Arch A. Moore, Jr., took office in 1969, one of his first acts was to ask state businessmen for recommendations to "help bust the welfare cycle." Accepting their suggestions, he merged the state's Welfare and Employment Security departments. He expedited welfare applications by reducing the number of offices—county, district and state—through which they had to make their way, and by install-

ing computer terminals in the county offices.

Moore added refinements of his own. At his instigation, West Virginia became the first state to require that recipients, if able to work, accept appropriate employment. Before, 14,000 welfare fathers had received benefits. Today fewer than 1000 do. Recipients used to average 20 months on the rolls. Today they average seven. The six-week processing time for new applications has been cut to one. Savings thus far: $60 million. Between 1970 and 1974, the nation's welfare rolls increased by 36.2 percent; in West Virginia, the rolls dropped by 32.4 percent.

Reorganizations and consolidations haven't been limited to welfare departments. Inspired by businessmen's recommendations, Florida is working on the development of a "one-stop" automotive services system to replace its 690 locations for such services as driver's licenses, vehicle inspection, license-plate sales, and processing of titles.

In Connecticut, alarmed by the high cost of maintenance at state buildings in Hartford, businessmen discovered that a private firm would do the job for one-third the price. The saving: $760,000 per year.

Insisting on tighter money management. In Minnesota, members of Gov. Wendell Anderson's volunteer task force found that it took Revenue Department employes an average of 4.5 days to process each incoming check. By depositing checks the day they arrived, the department could reap additional interest of nearly $700,000 per year. In New Jersey, businessmen recommended saving $1.5 million by reducing the amount the state kept in checking accounts and investing the money in securities. Another $4 million could be realized simply by improving the investment portfolio of state pension funds.

Stopping unnecessary purchasing. Almost everywhere, businessmen have found, states are buying items they don't need, paying more than they should, and keeping excessive supplies in inventory. Simply by purchasing compact cars instead of standard-sized vehicles, businessmen discovered, North Carolina could have $265,000 per year. In Ohio, businessmen learned that one state hospital had bought enough sugar to last it for 16 years.

In Minnesota, executives found that the highway department had enough supplies for 18 months. Their recommendation: keep on hand only enough for three to four months. The department agreed. The $5 million that had formerly been funneled into excess inventory every year was poured instead into concrete, asphalt and blacktop. Result: the state has been able to continue its highway construction program, while some states—because of reduced gasoline-tax revenues and heavy inflation—have had to shut down their programs.

Charging users fair fees for state services. Copies of birth certificates, professional licenses, driving permits—the list of services that citizens expect from state government is varied and long. Often, states don't charge enough to defray the costs.

Ever since 1927, for example, New Jersey had charged a constant $5 fee for issuing teaching certificates—though in the interim teachers' salaries had increased by 700 percent, and the Department of Education was losing money. The businessmen's suggestion: raise the certificate fee to $20, and glean an additional $600,000 per year.

In Alabama, the Governor's Cost Control Survey discovered that the Alcoholic Beverage Control Board was spending $75 to process each annual license renewal for retail beer outlets, but charging just $10. Raise the fee, the businessmen said. (This has not been done, as of this writing.) In Iowa, executives concluded that the state could earn $1.4 million by increasing its charges for hunting and fishing licenses and boat registrations. (This was one of the minor recommendations by a blue-ribbon Economy Committee, which has helped Gov. Robert D. Ray cut taxes, expand services, and establish a substantial surplus in the state treasury.)

FACING FISCAL REALITY

The mere establishment of a businessmen's task force is, of course, no panacea for the problems that plague state government. Without a determination by the governor to recruit the best talent available, without his firm commitment to implement as many of the recommendations as possible, without following-through by the businessmen themselves, the effort can fail. Some suggestions may prove impracticable; legislatures may stall others for reasons of their own. Yet, in all but a few of the states which have attempted to improve their management functions, the result has been more efficient, more economical government. And that is what taxpayers want.

Recently, Ohio and Pennsylvania invited businessmen back to study their operations for a second time. One executive involved in the Pennsylvania study—Otto Ehrsam of Bethlehem Steel—was visiting a correctional facility with other members of his team. Invited for lunch, they discovered to their surprise that they did not have to pay. Checking further, they discovered that the state provided free meals to 2700 correctional-bureau employes every day. Annual cost: $745,000. "We decided that this ought to stop," Ehrsam recalls. "We said that there should be no such thing as a free lunch in state government."

EXHIBIT 2

S. 3580

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 "Management and Policy Strike-Force" Act.

DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress to promote the economy and efficiency as well as the improved delivery of services in transaction of the public operation of departments, bureaus, agencies, boards, commissions, offices, independent establishments and instrumentalities of the Executive Branch of the Federal Government by

(1) limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions;

(2) eliminating duplicative and overlapping procedures, activities, services and functions;

(3) consolidating services, activities and functions of similar nature;

(4) abolishing services, activities and functions that are obsolete or unnecessary to the efficient conduct of the Federal Government; and

(5) defining and limiting executive functions, services, procedures and activities.

POLICY-MANAGEMENT STUDY COORDINATION OFFICE

SEC. 3. (a) There is hereby established as an independent instrumentality of the United States a Policy-Management Study Coordination Office (hereinafter referred to as the "Office").

(b) The Office shall be composed of 7 members as follows:

(1) The President of the United States.

(2) The Comptroller General of the United States.

(3) The Director of the Office of Management and Budget.

(4) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(5) Two Members of the Senate of the United States appointed by the President pro tempore of the Senate.

(c) Any vacancy in the Office shall not affect its powers and shall be filled—

(1) in the case of members described in paragraphs (2) and (3) by their successors or by their deputies; or

(2) in the case of members described in paragraph (4) or (5) in the same manner in which the original appointment was made.

(d) The President shall serve as Chairman of the Office. The Office shall elect a Vice-Chairman from among its members other than the President.

(e) Four members of the Office shall constitute a quorum.

DUTIES

SEC. 4. It shall be the duty of the Office—

(1) to study and analyze the Government of the United States of America, dividing it along functional, structural, or other conceptual lines such as departments, units, agencies, bureaus, boards, commissions, offices, or operations so that the structural and functional characteristics of the Government of the United States may be segregated, designated, and reviewed by an appropriate Management and Policy Strike-Force as provided by Section 11;

(2) to appoint to each Management and Policy Strike-Force, by majority vote, 3 individuals who by reason of background, experience, or education are particularly suitable for such appointment;

(3) to require the submission of interim and final reports of each of the Management and Policy Strike-Force at such times according to such schedule as the Office may require; and

(4) to receive and disseminate the reports and recommendations of the Management and Policy Strike-Force to the Congress, the President, and the public.

POWERS OF THE OFFICE

SEC. 5. (a) The Office, or on the authorization of the Office, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, sit and act at such times and places as the Management and Policy Strike-Force may deem advisable.

(b) The Office may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government available books, papers, documents, statistics, studies, reports and any other information which the Office deems useful in the discharge of its duties. The Office is authorized and directed to request appropriate information from the appropriate officials of the legislative and judicial branches of the Government. All department, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government and the appropriate officials of the legislative and judicial branches of the Government shall cooperate with the Office and furnish all information requested by the Office to the extent permitted by law.

ADMINISTRATIVE PROVISIONS OF THE OFFICE

SEC. 6. (a) Subject to such rules and regulations as may be adopted by the Office, the Office shall have the power—

(1) to appoint and fix the compensation of an Executive Director and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter II of chapter 53 of such title relating to classification and General Schedule pay rates, but—

(A) in the case of the Executive Director, at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) in the case of all other personnel, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) to produce temporary and intermittent services to the same extent as is author-

ized by section 3109 of title 5, United States Code.

(b) The Office is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Office in such amounts as the President may determine.

MANAGEMENT AND POLICY STRIKE-FORCES

SEC. 7. (a) There are established so many study commissions to be known as Management and Policy Strike-Forces as the Office shall deem necessary for the purpose of conducting in depth management studies as the Office may determine.

(b) Each such Management and Policy Strike-Force shall be composed of three Commissioners appointed pursuant to section 8.

MEMBERS

SEC. 8. (a) A Management and Policy Strike-Force shall be composed of 3 members, appointed by a majority vote of the members of the Office pursuant to section 4, and shall constitute the sole source of authority and direction for each Management and Policy Strike-Force.

(b) Not more than one member of a Management and Policy Strike-Force may have served on any other Management and Policy Strike-Force.

(c) No person may serve simultaneously as a member of two or more Management and Policy Strike-Forces.

(d) No person shall serve as a member of a Management and Policy Strike-Force who is presently serving or has previously served as a member of either house of Congress, or is presently an employee of the Government of the United States of America or has been an employee of the Government of the United States of America at any time during the five years proceeding the date of enactment of this legislation;

(e) Two members of a Management and Policy Strike-Force shall constitute a quorum.

(f) Each management and policy strike force shall elect a chairman from among its members.

COMPENSATION

SEC. 9. (a) The members of the Office shall serve without compensation in addition to that received for their services in the executive branch or as Members of Congress, as the case may be, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Office.

(b) All members of a management and policy strike force shall be reimbursed for travel, subsistence, and other necessary expenses incurred in connection with their activities as members of a management and policy strike force.

COMMISSION UTILIZATION OF PRIVATE SECTOR RESOURCES

SEC. 10. Each management and policy strike force shall, in carrying out the duties provided for in section 11 of this Act, to the fullest possible extent utilize the volunteer services and skills of capable and qualified individuals from the private sector.

DUTIES

SEC. 11. Each management and policy strike force shall—

(1) conduct an in-depth analysis and study of the subject matter area for which it is responsible, as determined by the Office, in order to promote economy, efficiency, and improved service in the transaction of the public business in the department, bureaus, agencies, boards, commissions, offices, independent establishments, instrumentalities, and authorities of the Government by proposing such reform, changes, and legislative measures as will have the effect of—

(A) limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;

(B) eliminating duplication and overlapping of services, activities, and functions;

(C) consolidating services, activities, and functions of a similar nature;

(D) abolishing services, activities, and functions obsolete or not necessary to the efficient conduct of government; and

(E) defining and limiting appropriate executive, legsilative, and judicial functions, services, and activities;

(2) submit a report of its finding proposed legislative changes, to the Office within such reasonable time schedule as the Office may require.

POWERS OF THE MANAGEMENT AND POLICY STRIKE-FORCE

SEC. 12. (a) A Management and Policy Strike-Force or, on the authorization of a Management and Policy Strike-Force, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as such a Management and Policy Strike-Force or such subcommittee or member may deem advisable.

(b)(1) Subpoenas shall be issued under the signature of the Chairman or any member of a Management and Policy Strike-Force designated by him and shall be served by any person designated by the Chairman or by any member. Any member of such a Management and Policy Strike-Force may administer oaths or affirmation to witnesses appearing before such a Management and Policy Strike-Force.

(2) The provisions of sections 1821 of title 28, United States Code, shall apply to witnesses summoned to appear at any such hearing. The per diem and mileage allowances to witnesses summoned under the authority conferred by this section shall be paid from funds appropriated to such a Management and Policy Strike-Force.

(3) Any person who willfully neglects or refuses to appear, or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this section shall be fined not more than $500, or imprisoned for not more than 6 months, or both. Upon the certification by the Chairman of a Management and Policy Strike-Force of the facts concerning any such willful disobedience by any person to the United States Attorney for any judicial district in which such person resides or is found, such attorney may proceed by information for the prosecution of such person for such offense.

(c) A Management and Policy Strike-Force may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government available books, papers, documents, statistics, studies, reports, any other information which the Management and Policy Strike-Force deems useful in the discharge of its duties. A Management and Policy Strike-Force is authorized and directed to request such information from the appropriate officials of the legislative and judicial branches of the Government. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government and the appropriate officials of the legislative and judicial branches of the Government shall cooperate with a Management and Policy Strike-Force and furnish all information requested by a Management and Policy Strike-Force to the extent permitted by law.

(d) A Management and Policy Strike-Force may conduct its own research activity which it shall deem necessary to fulfill its duties.

ADMINISTRATIVE PROVISIONS FOR MANAGEMENT AND POLICY STRIKE-FORCES

SEC. 13. (a) Subject to such rules and regulations as may be adopted by a Management and Policy Strike-Force, a Management and Policy Strike-Force shall have the power—

(1) to appoint and fix the compensation of an Executive Director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but—

(A) in the case of the Executive Director, at a rate equal to that for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) in the case of all other personnel, at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title;

(C) in the case of the Executive Director, no person shall be appointed to serve as Executive Director who is presently serving or has previously served as a member of either House of Congress or who is presently or has previously been an employee of the United States Government, with the exception of active or reserve service with one of the branches of the United States Armed Forces.

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(3) wherever possible, accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(b) Each Management and Policy Strike-Force is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of such Management and Policy Strike-Force in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

RECEIPT OF REPORTS AND RECOMMENDATIONS

SEC. 14. The Coordination office has no authorization, after receiving an interim or final report from a Management and Policy Strike-Force as authorized in Sec. 11 to reject, alter, abridge, suppress, or otherwise modify such report or the recommendations contained therein.

TERMINATION

SEC. 15. Each Management and Policy Strike-Force shall terminate not later than sixty days after the date on which it transmits its final report to the Office pursuant to section 11.

APPROPRIATIONS

SEC. 16. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. HATHAWAY. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded.

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 15 minutes, with statements therein limited to 5 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF FLOOR—H.R. 10612

Mr. LEAHY. Mr. President, I ask unanimous consent that during floor debate and votes on the matters before the Senate today that Herb Jolovitz and Judy Heffner of my staff be given the privileges of the floor.

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

Mr. McCLURE. Mr. President, I make a similar request for Mr. Charles McQuillen of the Budget Committee staff.

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

Mr. LONG. Mr. President, I ask unanimous consent that the following additional staff be permitted floor privileges during Senate consideration of H.R. 10612:

From the Finance Committee staff: Bob Best, Michael Rowny, and Dick Rivers.

From my personal staff: John Steen, Jim Guirard, Doug Svendson, Dot Turnipseed, George Foote, and Bruce Feingerts.

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

Mr. LONG. Mr. President, please understand that I do not anticipate that they would all be on the floor at one time. One at a time should suffice. May I say to the Presiding Officer that I hope that all other Senators who have asked that people be on the floor, people from their staff or from committee staffs, will not bring them all on the floor at one time because, having heard some of these requests, I just do not think the Senate Chamber is big enough to hold all these advisers at one time. But if they bring them in when we need them we can work things out.

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

Mr. LONG. I yield.

Mr. HANSEN. Fully understanding the wisdom that undergirds the chairman's observation that all these people should not be on the floor, it would be my full intention to comply in spirit with that admonition, and with that understanding I would like to ask permission that Bill Corbett and Linda Gould might be on the floor.

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

Mr. LONG. Further, Mr. President, I ask unanimous consent, on behalf of the Joint Committee on Internal Revenue Taxation, that Larry Brown be granted the privileges of the floor.

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

Mr. HATHAWAY. Mr. President, I ask unanimous consent that my legislative assistant, John Craford, be allowed the privileges of the floor during debate on this bill and any votes thereon.

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

Mr. NELSON. Mr. President, I ask unanimous consent that Gary Bickel of my staff be allowed the privileges of the floor during the course of debate on the pending tax legislation.

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

Mr. LONG. Mr. President, there are going to be so many requests that somebody be permitted to come on the floor that I would just ask unanimous consent that I might be permitted to keep a list here at my desk, and those who want to add names, give them to me and I will just send them up to the desk. I ask unanimous consent that I might do that.

Mr. LEAHY. Mr. President, if the Senator will yield, I ask unanimous consent for one more person, Mary Jo Manning of the Presiding Officer's staff, be allowed the privileges of the floor.

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

Mr. LONG. Mr. President, I think it should be clear to all Senators why I ask to be permitted to keep a list here and send up to the clerk the additional names that come in without interrupting this debate every time we get ready to do something. When a Senator wants to bring someone else in, I would just send up the list.

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

(Routine morning business transacted today is printed later in today's RECORD of Senate proceedings.)

CONCLUSION OF MORNING BUSINESS

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

TAX REFORM ACT OF 1976

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 10612, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The legislative clerk read as follows:

On page 1, between lines 3 and 4, insert a new table of contents.

The amendment is as follows:

On page 1, between lines 3 and 4, insert the following:

TABLE OF CONTENTS

TITLE I—SHORT TITLE AND AMENDMENT OF 1954 CODE

	Page
Sec. 101. Short title	50
Sec. 102. Amendment of 1954 Code	50
Sec. 103. Technical and conforming changes	50

TITLE II—AMENDMENTS RELATED TO TAX SHELTERS

Sec. 201. Recapture of depreciation on real property	51
Sec. 202. Limitations on deductions for expenses	65
Sec. 203. Termination of additions to excess deductions accounts under section 1251	71
Sec. 204. Limitations on deductions in case of farming syndicates and capitalization of certain orchard and vineyard expenses	76
Sec. 205. Treatment of prepared interest	82
Sec. 207. Amortization of production cost of motion pictures, books, records, and other similar property	94
Sec. 208. Clarification of definition of produced film rents	97
Sec. 209. Basis limitation for and recapture of depreciation on player contracts	102
Sec. 210. Certain partnerships provisions	110
Sec. 211. Scope of waiver of statute of limitations in case of activities not engaged in for profit	116

TITLE III—MINIMUM TAX AND MAXIMUM TAX

Sec. 301. Minimum tax for individuals	129
Sec. 302. Maximum tax for individuals	143

TITLE IV—EXTENSIONS OF INDIVIDUAL INCOME TAX REDUCTIONS

Sec. 401. Extensions of individual income tax reductions	152
Sec. 402. Refunds of earned income credit disregarded in the administration of Federal programs and federally assisted programs	158

TITLE V—TAX SIMPLIFICATION IN THE INDIVIDUAL INCOME TAX

Sec. 501. Revision of tax tables for individuals	187
Sec. 502. Limitation on deduction of State and local gasoline, etc., taxes	190
Sec. 503. Deduction for alimony allowed in determining adjusted gross income	191
Sec. 504. Revision of retirement income credit	191
Sec. 505. Credit for child care expenses	196
Sec. 506. Changes in exclusions for sick pay and certain military, etc., disability pensions	205
Sec. 507. Moving expenses	210
Sec. 508. Tax revision study	213
Sec. 509. Report by the Secretary of the Treasury	214

TITLE VI—BUSINESS RELATED INDIVIDUAL INCOME TAX PROVISIONS

Sec. 601. Deductions for expenses attributable to business use of homes, rental of vacation homes, etc	233
Sec. 602. Deductions for attending foreign conventions	240

Sec. 603. Change in tax treatment of qualified stock options 243
Sec. 604. Legislators' travel expenses away from home 245
TITLE VII—ACCUMULATION TRUSTS
Sec. 701. Accumulation trusts 259
TITLE VIII—CAPITAL FORMATION
Sec. 801. Extension of 10 percent credit and $100,000 limitation on used property 287
Sec. 802. Refund of expiring investment tax credit 288
Sec. 803. Extension of expiring investment and foreign tax credits 289
Sec. 804. Employee stock ownership plans 290
Sec. 805. Investment credit in the case of movie and television films 309
Sec. 806. Investment credit in the case of certain ships 323
Sec. 807. 8-year carryover of net operating loss 324
TITLE IX—SMALL BUSINESS PROVISIONS
Sec. 901. Small business provisions 335
TITLE X—CHANGES IN THE TREATMENT OF FOREIGN INCOME
PART I—FOREIGN TAX PROVISIONS AFFECTING INDIVIDUALS ABROAD
Sec. 1011. Income earned abroad by United States citizens living or residing abroad 442
Sec. 1012. Income tax treatment of nonresident alien individuals who are married to citizens or residents of the United States 445
Sec. 1013. Foreign trusts having one or more United States beneficiaries to be taxed currently to grantor 452
Sec. 1014. Interest charge on accumulation distributions from foreign trusts 459
Sec. 1015. Excise tax on transfers of property to foreign persons to avoid Federal income tax 461
PART II—AMENDMENTS AFFECTING TAX TREATMENT OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS
Sec. 1021. Amendment of provision relating to investment in United States property by controlled foreign corporations 463
Sec. 1022. Repeal of exclusion for earnings of less developed country corporations for purposes of section 1248 467
Sec. 1023. Exclusion from subpart F of certain earnings of insurance companies 468
Sec. 1024. Shipping profits of foreign corporations 469
Sec. 1025. Limitation on definition of foreign base company sales income in the case of certain agricultural products 471
PART III—AMENDMENTS AFFECTING TREATMENT OF FOREIGN TAXES
Sec. 1031. Requirement that foreign tax credit be determined on overall basis 471
Sec. 1032. Recapture of foreign losses 480
Sec. 1033. Dividends from less developed country corporations to be grossed up for purposes of determining United States income and foreign tax credit against that income 486
Sec. 1034. Treatment of capital gains for purposes of foreign tax credit 492
Sec. 1035. Foreign oil and gas extraction income 496
Sec. 1036. Underwriting income 504
Sec. 1037. Third tier foreign tax credit when section 951 applies 505
PART IV—MONEY OR OTHER PROPERTY MOVING OUT OF OR INTO THE UNITED STATES
Sec. 1041. Portfolio debt investments in United States of nonresident aliens and foreign corporations 507
Sec. 1042. Changes in ruling requirements under section 367; certain changes in section 1248 516
Sec. 1043. Contiguous country branches of domestic life insurance companies 532
Sec. 1044. Transitional rule for bond, etc., losses of foreign banks 540
PART V—SPECIAL CATEGORIES OF FOREIGN TAX TREATMENT
Sec. 1051. Tax treatment of corporations conducting trade or business in Puerto Rico and possesisons of the United States 541
Sec. 1052. Western Hemisphere trade corporations 552
Sec. 1053. Repeal of provisions relating to China Trade Act corporations 555
PART VI—DENIAL OF CERTAIN TAX BENEFITS ON INTERNATIONAL BOYCOTTS AND BRIBE-PRODUCED INCOME
Sec. 1061. Denial of foreign tax credit 557
Sec. 1062. Denial of deferral 559
Sec. 1063. Denial of DISC benefits 561
Sec. 1064. Earned income from sources without the United States 563
Sec. 1065. Determinations by the Secretary as to participation in, or cooperation with, an international boycott, and as to foreign bribe-produced income 564
Sec. 1066. Effective date 568
TITLE XI—AMENDMENTS AFFECTING DISC
Sec. 1101. Amendments affecting DISC 581
TITLE XII—ADMINISTRATIVE PROVISIONS
Sec. 1201. Public inspection of written determinations by Internal Revenue Service 659
Sec. 1202. Confidentiality and disclosure of returns and return information 679
Sec. 1203. Income tax return preparers 731
Sec. 1204. Jeopardy and termination assessments 747
Sec. 1205. Administrative summons 759
Sec. 1206. Assessments in case of mathematical or clerical errors 767
Sec. 1207. Withholding 771
Sec. 1208. State-conducted lotteries 781
Sec. 1209. Minimum exemption from levy for wages, salary, and other income 783
Sec. 1210. Joint committee refund cases 787
Sec. 1211. Social security account numbers 788
TITLE XIII—MISCELLANEOUS PROVISIONS
Sec. 1301. Tax treatment of certain housing associations 804
Sec. 1302. Treatment of certain disaster payments 810
Sec. 1303. Tax treatment of certain 1972 disaster losses 810
Sec. 1304. Tax treatment of certain debts owed by political parties, etc., to accrual basis taxpayers 813
Sec. 1305. Regulations relating to tax treatment of certain prepublication expenditures of authors and publishers 814
Sec. 1306. Tax-exempt bonds for student loans 816
Sec. 1307. Interest of original issue discount on certain obligations 817
Sec. 1308. Personal holding company income amendments 818
Sec. 1309. Work incentive program expenses 819
Sec. 1310. Repeal of excise tax on light-duty truck parts 822
Sec. 1311. Franchise transfers 822
Sec. 1312. Employers' duties in connection with the recording and reporting of tips 823
Sec. 1313. Treatment of certain pollution control facilities 824
Sec. 1314. Clarification of status of certain fishermen's organizations 826
Sec. 1315. Changes to subchapter S shareholder rules 827
Sec. 1316. Application of section 6013 (e) of the Internal Revenue Code of 1954 828
Sec. 1317. Amendments to rules relating to limitation on percentage depletion in case of oil and gas wells 829
Sec. 1318. Implementation of Federal-State Tax Collection Act of 1972 834
Sec. 1319. Cancellation of certain student loans 836
Sec. 1320. Treatment of gain or loss on sales or exchanges in connection with simultaneous liquidation of a parent and subsidiary corporation 837
Sec. 1321. Taxation of certain barges prohibited 838
Sec. 1322. Contributions in aid of construction for certain utilities 839
Sec. 1323. Prohibition of discriminatory State taxes on production and consumption of electricity 841
Sec. 1324. Allowance of deduction for eliminating architectural barriers for the handicapped 842
Sec. 1325. Reports 846
TITLE XIV—CAPITAL GAINS
Sec. 1401. Allowance of 8-year capital loss carryover in case of regulated investment companies 855
TITLE XV—PENSION AND INSURANCE TAXATION
Sec. 1501. Retirement savings for certain married individuals 886
Sec. 1502. Limitation on contributions to certain pension, etc. plans 905
Sec. 1503. Participation by Government employees in individual retirement accounts, etc 907
Sec. 1504. Participation by members of Reserves or National Guard in individual retirement accounts, etc 917
Sec. 1505. Certain investments by annuity plans 918
Sec. 1506. Segregated asset accounts 918
Sec. 1507. Study of salary reduction pension plans 920
Sec. 1508. Consolidated returns for life and other insurance companies 920
Sec. 1509. Restoration of certain amounts distributed by insurance companies 924
Sec. 1510. Treatment of certain life insurance contracts guaranteed renewable 926
TITLE XVI—REAL ESTATE INVESTMENT TRUSTS
Sec. 1601. Deficiency dividend procedure 953
Sec. 1602. Trust not disqualified in certain cases where income tests were not met 963

Sec. 1603. Treatment of property held for sale to customers ---------- 966
Sec. 1604. Other changes in limitations and requirements ---------- 968
Sec. 1605. Excise tax ---------- 982
Sec. 1606. Allowance of net operating loss carryover ---------- 987
Sec. 1607. Alternative tax in case of capital gains ---------- 989
Sec. 1608. Effective date for title ---------- 991
TITLE XVII—RAILROAD PROVISIONS
Sec. 1701. Certain provisions relating to railroads ---------- 1003
Sec. 1702. Amortization over 50-year period of railroad grading and tunnel bores placed in service before 1969 ---------- 1009
TITLE XIII—REPEAL AND REVISION OF OBSOLETE, RARELY USED, ETC., PROVISIONS OF INTERNAL REVENUE CODE OF 1954
SUBTITLE A—AMENDMENTS OF INTERNAL REVENUE CODE GENERALLY
Sec. 1300. Amendments of 1954 code ---- 1244
Sec. 1301. Amendments of subtitle A; income taxes ---------- 1244
Sec. 1302. Amendments of subtitle B; estate and gift taxes ---------- 1356
Sec. 1303. Amendments of subtitle C; employment taxes ---------- 1363
Sec. 1304. Amendments of subtitle D; miscellaneous excise taxes ---- 1374
Sec. 1305. Amendments of subtitle E; alcohol, tobacco, and certain other excise taxes ---------- 1394
Sec. 1306. Amendments of subtitle F; procedure and administration ---------- 1409
Sec. 1307. Amendments of subtitle G; the Joint Committee on Internal Revenue Taxation ---------- 1441
SUBTITLE B—AMENDMENTS OF CODE PROVISIONS WITH LIMITED CURRENT APPLICATION; REPEALS AND SAVINGS PROVISIONS
Sec. 1351. Provisions of subtitle A ---------- 1443
Sec. 1352. Provisions of subchapter D of chapter 39; cotton futures ---- 1455
TITLE XX—ENERGY RELATED PROVISIONS
Sec. 2001. Insulation of residence ---------- 1470
Sec. 2002. Residential solar and geothermal energy equipment ---- 1476
Sec. 2003. Investment tax credit changes relating to energy conservation and production ---------- 1485
Sec. 2005. Changes in investment credit relating to air-conditioning and space heaters ---------- 1503
Sec. 2006. Credit for purchase of matters which can be recycled ---- 1503
Sec. 2007. Repeal of excise tax on buses and bus parts ---------- 1511
Sec. 2008. Rerefined lubricating oil ---- 1513
Sec. 2009. Nonhighway use of special motor fuels ---------- 1515
Sec. 2010. Duty-free exchange of crude oil ---------- 1516
TITLE XXI—TAX EXEMPT ORGANIZATIONS
Sec. 2101. Disposition of private foundation property under transition rules of Tax Reform Act of 1969 ---------- 1518
Sec. 2102. New private foundations set-asides ---------- 1519
Sec. 2103. Minimum distribution amount for private foundations ---------- 1523
Sec. 2104. Extension of time to amend charitable remainder trust governing instrument ---------- 1524
Sec. 2105. Reduction of private foundation investment income excise tax ---------- 1525
Sec. 2106. Unrelated trade or business income of trade shows, State fairs, etc ---------- 1526
Sec. 2107. Declaratory judgments with respect to section 501(c)(3) status and classification ---------- 1530

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Victor Chao of my staff be granted the privileges of the floor.

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

Mr. LONG. Mr. President, the first matter that we will debate on the bill will be title I, the so-called LAL. It was more or less agreed that we were going to debate the budget resolution at about 3 o'clock to see if we could reach some agreement on that issue, and that being the case, I would suggest that the Senators who want to discuss the LAL provisions withhold offering their amendment but simply direct their remarks to it with the understanding that they will offer their amendment after we have disposed of the budget resolution.

In other words, there is nothing to keep us from debating the issue. As a matter of fact, the first amendment, Mr. President, would be the table of contents of the bill, and I would think we could probably agree to that by unanimous consent. There would not be any particular reason to argue about that, and then we could proceed to, I would hope what we could discuss, the LAL amendments that the Senators will offer. But I would hope they would withhold offering them until after we dispose of the budget issue so that we can proceed to legislate knowing where we stand.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

The amendment was agreed to.

Mr. NELSON. Mr. President, Senator HASKELL or Senator HATHAWAY or I, whoever is here, would wish to offer, when the chairman of the Finance Committee offers the motion to strike the LAL, one of us would wish to offer, as a substitute to that motion the House language on the LAL, with an amendment which would exempt residential real estate.

So do I understand the chairman to say that whereas it is perfectly acceptable that the opponents of the substitute wish to discuss the LAL, the Senator would want them to withhold offering the substitute until after the afternoon's discussion at 3 o'clock and until the chairman brings up the motion to strike; is that correct?

Mr. LONG. Yes.

Until we can dispose of the budget issue. When Mr. MUSKIE is here, and we are all available to discuss this issue, I think the Senate, if we cannot agree amongst ourselves, ought to decide for us with regard to the budget issue. Then once that matter can be resolved, it seems to me, we can go ahead and debate these matters, like LAL, completely on their own merits. I think that is how they ought to be decided.

In other words, we can decide whether the Finance Committee is right about LAL after we decide the budget issue. It seems to me that we will make time and save time by deciding the budget issue first and then deciding that we will then decide about LAL, and then go on to the other provisions. Meanwhile we can talk about LAL. It is perfectly all right to talk about it.

Mr. NELSON. That is up to the Senator from Colorado or the Senator from Maine, who are cosponsors with me on this. I just want the chairman to know at the time the motion to strike is made, that amendment is called up, that one of us will want to offer a substitute, which would be the House provision with a modification exempting residential real estate.

Mr. LONG. That is exactly right, and that is how we agreed, and that is how the rules would require us to proceed, and I think that would be the ideal procedure under the circumstances.

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

As I understand it, the motion to strike is the pending business. Am I correct in that?

The PRESIDING OFFICER. The Senator is correct.

The clerk will report the second committee amendment.

The legislative clerk read as follows:

On page 1, strike out all after lines 3 over to and including all of page 40.

Mr. HASKELL. Mr. President, if the Senator from Louisiana's motion to strike is the pending business, would this not be the appropriate time to offer the substitute amendment adverted to by the Senator from Wisconsin? Then we would be in proper parliamentary order. We can then discuss it. We will all agree that there will be no voting until after the budget discussion takes place at 3 o'clock.

I would like to ask the Senator from Louisiana, Would that not be appropriate?

Mr. LONG. I have no objection to the Senator's offering his amendment. I just do not think we ought to vote on that or on our motion to strike, before we decide the budget issue.

Mr. HASKELL. I agree.

Mr. LONG. But I think there is no harm done, and perhaps it would expedite our procedure, for the Senator to go ahead and make his case on LAL and we might discuss this in some detail before 3 o'clock. Then after we decide the budget issue, we will come back to it.

Mr. HASKELL. I agree.

Then just to get it in the proper parliamentary order, I think the Senator from Wisconsin has this substitute amendment and if we could send that as a substitute to the Senator from Louisiana's motion to strike, we will go ahead and discuss it.

We will agree there will be no votes until after the complete discussion of the budget resolution commencing at 3 o'clock. If that is satisfactory to the Senator from Louisiana, I ask the Senator from Wisconsin——

Mr. McCLURE. If the Senator will yield before doing that, I think this dis-

cussion presupposes that the discussion of the proposed substitute will last from now until 3 o'clock.

In the event that did not happen, there might be the necessity to set this aside by unanimous consent until after 3 o'clock.

Would the Senator from Colorado and the Senator from Wisconsin agree that is a possibility?

Mr. HASKELL. On my part, that is understood. Last night, the leader indicated any bills could be taken up at the conclusion of the debate on LAL.

Mr. NELSON. Mr. President, it is to substitute, and to ask unanimous consent that action on the substitute not be taken until after the dialog on the budget question is completed sometime this afternoon. I am not asking immediately, but thereafter sometime.

Mr. McCLURE. And if necessary, by unanimous consent it would be set aside and other matters could be brought up in the interim.

UP AMENDMENT NO. 57

Mr. NELSON. Mr. President, I send to the desk and move this substitute to the motion to strike. I ask unanimous consent that action on the voting on this substitute not occur until some time after the budget discussion is completed this afternoon. I am not asking for a date certain, it may be tonight or tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object——

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I think one further thing might be mentioned. That is the possibility of amendments to the substitute.

If the substitute is laid down, an amendment might be laid down and discussed, but not voted on prior to 3 o'clock.

Mr. NELSON. I would include that in my unanimous-consent request.

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

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) (for himself, Mr. HOLLINGS, Mr. MATHIAS, Mr. BROOKE, Mr. CLARK, Mr. GARY HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. KENNEDY, Mr. MONDALE, and Mr. PROXMIRE) proposes an unprinted amendment No. 57.

The amendment is as follows:

SEC. 104. LIMITATION ON ARTIFICIAL LOSSES.

(a) IN GENERAL.—Part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by redesignating subpart D as subpart E and by inserting after subpart C the following new subpart:

"Subpart D—Limitation on Artificial Losses

"Sec. 446. Taxable year for taking certain accelerated deductions which would cause artificial losses.

"Sec. 467. LAL property; classes of LAL property.

"Sec. 468. Accelerated deductions; net related income.

"Sec. 469. Dispositions of LAL property.

"Sec. 470. Other definitions and special rules.

"SEC. 466. TAXABLE YEAR FOR TAKING CERTAIN ACCELERATED DEDUCTIONS WHICH WOULD CAUSE ARTIFICIAL LOSSES.

"(a) ACCELERATED DEDUCTIONS DEFERRED TO EXTENT THEY EXCEED RELATED INCOME.—

"(1) IN GENERAL.—Except as otherwise provided in this subpart, in the case of any taxpayer subject to this subpart, accelerated deductions which are attributable to a class of LAL property and which (but for this section) would be allowable for the taxable year shall not be allowed for such year to the extent that such deduction exceed the net related income for such year from such class of property.

"(2) TAXPAYERS SUBJECT TO SUBPART.—Except as provided in paragraph (3), the following shall be subject to this subpart:

"(A) an individual,

"(B) an electing small business corporation (within the meaning of section 1371 (b)), and

"(C) with respect to LAL farm property, a corporation to which section 447(a) (relating to method of accounting for corporations engaged in farming) does not apply.

"(3) EXCEPTION FOR CERTAIN ACCRUAL TAXPAYERS ENGAGED IN FARMING.—Paragraph (1) of this subsection and subsection (b) shall not apply to any taxpayer with respect to property described in section 467 (a)(3) if the taxpayer uses an accrual method of accounting with respect to such property and capitalizes preproductive period expenses described in section 468(c) (1).

"(b) DEFERRED DEDUCTIONS PLACED IN DEFERRED DEDUCTION ACCOUNT.—Each taxpayer to whom subsection (a) applies for any taxable year shall establish and maintain a deferred deduction account for each class of LAL property. The deductions not allowed for any taxable year solely by reason of subsection (a) with respect to any class of LAL property shall be placed in the deferred deduction account for such class of property.

"(c) DEFERRED DEDUCTIONS ALLOWED IN LATER YEARS.—In the case of any taxpayer to whom subsection (a) applied with respect to any class of LAL property for any taxable year, if the net related income from such class of property for any subsequent taxable year exceeds the accelerated deductions attributable to such class of property for such subsequent year, if there shall be subtracted from the deferred deduction account and allowed as a deduction for such subsequent year an amount equal to the lesser of—

"(1) such excess, or

"(2) the amount in the deferred deduction account for such class of property at the close of such subsequent taxable year (determined without regard to the application of this subsection to such subsequent taxable year).

"SEC. 467. LAL PROPERTY; CLASSES OF LAL PROPERTY.

"(a) LAL PROPERTY DEFINED.—For purposes of this subpart, the term 'LAL property' means property described in any of the following paragraphs:

"(1) LAL REAL PROPERTY.—Real property—

"(A) which is or will be either property described in section 1221(1) or property held for rental, and

"(B) which is not section 1245 property (as defined in section 1245(a)(3)).

"(2) LAL LEASE PROPERTY.—In the case of a lessor, any section 1245 property (as defined in section 1245(a)(3)) which is leased or held for leasing.

"(3) LAL FARM PROPERTY.—Any property—

"(A) which is held for use in the trade or business of farming, or

"(B) which is described in section 1221(1) and held in connection with the trade or business of farming.

"(4) LAL FILM PROPERTY.—Any motion picture film or video tape created primarily for use as public entertainment and any right to produce, distribute, or display such a film or tape.

"(5) LAL OIL AND GAS PROPERTY.—Any interest in an oil or gas well which is not an exploratory well.

"(6) LAL SPORTS FRANCHISE PROPERTY.—Any interest in a franchise to conduct a sports enterprise.

"(b) CLASSES OF LAL REAL PROPERTY.—For purposes of this subpart, all property of the taxpayer described in subsection (a)(1) is one class of property.

"(c) CLASSES OF LAL LEASE PROPERTY.—For purposes of this subpart, each item of property described in subsection (a)(2) is a separate class of property.

"(d) CLASSES OF LAL FARM PROPERTY.—For purposes of this subpart—

"(1) IN GENERAL.—Except as provided in paragraph (2), all property of the taxpayer described in subsection (a)(3) is one class of property.

"(2) RULE FOR FARMING SYNDICATES.—In the case of any interest in a farming syndicate, property described in subsection (a)(3) attributable to each activity on each farm begun during any taxable year is a separate class of property.

"(3) FARMING SYNDICATE DEFINED.—

"(A) IN GENERAL.—The term 'farming syndicate' means—

"(i) a partnership engaged in the trade or business of farming if at any time interests in such partnership have been offered for sale in any offering required to be registered with a Federal or State agency having authority to regulate the offering of securities for sale,

"(ii) a partnership engaged in the trade or business of farming, if more than 50 percent of the losses during any period are allocable to limited partners, and

"(iii) any other enterprise engaged in the trade or business of farming if at any time interests in such enterprise have been offered for sale in an offering described in clause (i) or if the allocation of losses in such enterprise is similar to an allocation described in clause (ii).

"(B) HOLDINGS ATTRIBUTABLE TO ACTIVE MANAGEMENT.—For purposes of clause (ii) of subparagraph (A), in the case of any individual who has actively participated (for a period of not less than 5 years) in the management of any trade or business of farming, any interest in a partnership which is attributable to such active participation and which is held by such individual (or by any member of his family within the meaning of section 267(c)(4)) shall be treated as an interest which is not held by a limited partner. A rule similar to the rule provided by the preceding sentence shall apply for purposes of so much of clause (iii) of subparagraph (A) as relates to clause (ii) of subparagraph (A).

"(e) CLASSES OF LAL FILM PROPERTY.—For purposes of this subpart, each item of property described in subsection (a)(4) is a separate class of property.

"(f) CLASSES OF LAL OIL AND GAS PROPERTY.—For purposes of this subpart, each property (within the meaning of section 614) is a separate class of property.

"(g) CLASSES OF SPORTS FRANCHISE PROPERTY.—For purposes of this subpart, each franchise to conduct a sports enterprise is a separate class of property.

"SEC. 468. ACCELERATED DEDUCTIONS; NET RELATED INCOME.

"(a) REAL PROPERTY.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(1), means—

"(1) CONSTRUCTION PERIOD INTEREST AND TAXES.—All—

"(A) interest paid or accrued on indebtedness incurred or continued to acquire, construct, or carry real property, and

"(B) real property taxes,

to the extent such interest and taxes are attributable to the construction period for such property and would be allowable as a deduction under this chapter for the taxable year (determined without regard to this subpart).

"(2) ACCELERATED DEPRECIATION.—The excess of—

"(A) the deduction allowable under this chapter (determined without regard to this subpart) for the taxable year for depreciation or amortization, over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(b) LEASE PROPERTY.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(2), means the excess of—

"(1) the deduction allowable under this chapter (determined without regard to this subpart) for the taxable year for depreciation or amortization, over

"(2) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

For purposes of paragraph (2), useful life shall be determined as if section 167(m)(1) (relating to asset depreciation range) did not include the last sentence thereof.

"(c) FARM PROPERTY.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(3), means—

"(1) PREPRODUCTIVE PERIOD EXPENSES.—

"(A) IN GENERAL.—Any amount which is attributable to crops, animals, or trees (or to any other property having a crop or yield) during the preproductive period of such property and which is allowable as a deduction for the taxable year (determined without regard to this subpart).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to taxes and interest,

"(ii) to any amount incurred on account of fire, storm, flood, or other casualty or on account of disease or drought,

"(iii) to grain, oil seed, fiber, pasture, tobacco, silage, and forage crops (including expenses of planting, seeding, residue processing, fallowing, plowing, or any other soil preparation), and

"(iv) to livestock other than poultry.

Clauses (iii) and (iv) shall not apply in the case of an interest in a farming syndicate (as defined in section 467(d)(3)).

"(C) PREPRODUCTIVE PERIOD DEFINED.—For purposes of this paragraph, the term 'preproductive period' means—

"(i) in the case of property having a useful life of more than 1 year which will have more than 1 crop or yield, the period before the disposition of the first such marketable crop or yield, or

"(ii) in the case of any other property, the period before such property is disposed of.

For purposes of this subpart, the use by the taxpayer in the trade or business of farming of any supply produced in such trade or business shall be treated as a disposition.

"(2) PREPAID FEED, SEED, FERTILIZER, ETC.—

"(A) IN GENERAL.—Any amount paid for feed, seed, fertilizer, or other supplies which are on hand at the close of the taxable year.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any amount paid for supplies which are on hand at the close of the taxable year on account of fire, storm, flood, or other casualty or on account of disease or drought, or

"(ii) in the case of a taxpayer (other than a farming syndicate as defined in section 467(a)(3)) who, on the average, produces more than 50 percent (by volume) of the feed consumed by such taxpayer's livestock (other than poultry), any amount paid for feed which is on hand at the close of the taxable year.

"(3) ACCELERATED DEPRECIATION OF ANIMALS, TREES, ETC., DURING PRODUCTIVE PERIOD.—In the case of animals, trees, or other property having a crop or yield, the excess of—

"(A) the deduction allowable for the taxable year under section 167 (determined without regard to this subpart), over

"(B) the deduction which would have been allowable for the taxable year had the taxpayer depreciated the property under the straight line method for each taxable year of its useful life for which the taxpayer has held the property.

"(d) FILM PROPERTY.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(4), means any amount allowable for the taxable year under this chapter (determined without regard to this subpart) as a deduction—

"(1) for depreciation or amortization, or

"(2) for amounts attributable to producing, distributing, or displaying such property.

"(e) OIL AND GAS PROPERTY.—For purposes of this subpart, the term "accelerated deduction', when used with respect to a class of property described in section 467(a)(5), means the excess (if any) of—

"(1) the intangible drilling and development costs described in section 263(c) allowable under this chapter (determined without regard to this subpart) for the taxable year with respect to such class of property, over

"(2) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in section 57(f)) had been used with respect to such costs.

Such term does not include intangible drilling and development costs described in section 263(c) allowable under this chapter which are attributable to a well drilled solely to inject water or other substances to stimulate or increase the production of oil or gas.

"(f) SPORTS FRANCHISE PROPERTY.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'accelerated deduction', when used with respect to a class of property described in section 467(a)(6), means any amount allowable for the taxable year under this chapter (determined without regard to this subpart) as a deduction under section 167 for the LAL portion of the basis of player contracts.

"(2) LAL PORTION OF THE BASIS OF PLAYER CONTRACTS DEFINED.—For purposes of paragraph (1), the LAL portion of the basis of player contracts means, in the case of any franchise, the excess of the amount allocated to player contracts by the transferee over the sum of—

"(A) the aggregate adjusted bases of the player contracts in the hands of the transferor immediately before the transfer of the franchise, plus

"(B) the ordinary income (if any) recognized by the transferor on the transfer of the franchise.

"(3) PLAYER CONTRACT DEFINED.—For purposes of this subsection, the term 'player contract' means any contract for the services of an athlete which, in the hands of the taxpayer, is of a character subject to the allowance for depreciation provided in section 167. Such a contract shall be taken into account for purposes of this subpart only if the franchise acquired such contract in connection with the transfer of the franchise.

"(4) ESTABLISHMENT OF FRANCHISE TREATED AS TRANSFER.—For purposes of this subsection, the establishment of a franchise shall be treated as a transfer.

"(g) NET RELATED INCOME.—

"(1) IN GENERAL.—For purposes of this subpart, the net related income from a class of property for a taxable year is the excess of—

"(A) the gross income from such class for such year, over

"(B) the sum of the deductions (other than accelerated deductions) for such year attributable to such class.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) any excess of the deductions (other than accelerated deductions) attributable to an item of property shall not be taken into account,

"(B) the net operating loss deduction provided by section 172 shall not be taken into account,

"(C) any deduction under section 1202 (relating to deduction for capital gains) and any capital loss carryback or carryover under section 1212 (relating to capital loss carrybacks and carryovers) shall not be taken into account, and

"(D) any deduction allowed under section 469 (a) by reason of section 469(b)(4) (relating to nonproductive oil and gas wells) shall be treated as a deduction which is not an accelerated deduction.

"(3) CERTAIN PROCESSING INCOME TREATED AS FARMING INCOME.—

"(A) IN GENERAL.—For purposes of paragraph (1) of this subsection and for purposes of section 470(b)(3), the net income of any person from the processing of (including the application of one or more manufacturing processes to) a farm product produced by such person shall be treated as net income of such person attributable to the business of farming if such processing is performed by such person or by any partnership, electing small business corporation, or cooperative of which such person is a member.

"(B) PARAGRAPH NOT TO APPLY TO SYNDICATED FARMING INTEREST.—This paragraph shall not apply with respect to any interest in a farming syndicate within the meaning of section 467(d)(3).

"SEC. 469. DISPOSITIONS.

"(a) GENERAL RULE.—If the disposition of any LAL disposition class is completed during the taxable year, there shall be allowed as a deduction any amount remaining in the deferred deduction account allocable to such class at the close of the taxable year after the application of this subpart other than this section.

"(b) DISPOSITION CLASSES.—

"(1) IN GENERAL.—For purposes of this section, except as provided in paragraphs (2), (3), and (4), the term 'LAL disposition class' means any class of LAL property (within the meaning of section 467).

"(2) SPECIAL RULE FOR REAL PROPERTY.—For purposes of paragraph (1), in the case of property described in section 467(a)(1), the term 'LAL disposition class' means any item of such property.

"(3) SPECIAL RULE FOR FARM PROPERTY.—For purposes of paragraph (1), in the case of property described in section 467(a)(3), the term 'LAL disposition class' means—

"(A) except as provided in subparagraphs (B) and (C), all such property which is attributable to one activity on one farm begun during any taxable year,

"(B) in the case of any interest in a farming syndicate, all such property attributable to any one activity, and

"(C) any feed, seed, fertilizer, or other supplies consumed during the taxable year

which were on hand at the close of a prior taxable year.

Notwithstanding the preceding sentence, in the case of an interest in farming which is not an interest in a farming syndicate, the taxpayer may elect to treat the portion of each crop or yield disposed of during any taxable year as a separate LAL disposition class.

"(4) NONPRODUCTIVE OIL AND GAS WELLS.—For purposes of this section, in the case of LAL property described in section 467(a)(5), the completion of a nonproductive oil or gas well shall be treated as the disposition of a separate LAL disposition class.

"(c) DEEMED DISPOSITIONS.—

"(1) PROPERTY CEASES TO BE REAL PROPERTY OR LEASE PROPERTY.—For purposes of this section, property described in paragraph (1) or (2) of section 467(a) shall be deemed disposed of when in the hands of the taxpayer it ceases to meet the requirements of such paragraph.

"(2) FILMS.—Property described in paragraph (4) of section 467(a) which has not therefore been disposed of shall be deemed disposed of at the earlier of—

"(A) the close of the 1st taxable year following any taxable year by the close of which 95 percent or more of the income forecast for such property has been received or accrued, or

"(B) the close of the 7th taxable year following the taxable year in which such property is placed in service by the taxpayer.

Subparagraph (A) shall not cause any property to be deemed disposed of earlier than the close of the 2d taxable year following the taxable year in which such property was placed in service by the taxpayer.

"(d) CERTAIN TRANSFERS NOT TREATED AS DISPOSITIONS.—

"(1) IN GENERAL.—For purposes of this subpart, a transfer of property—

"(A) by gift,

"(B) in a transaction in which gain or loss is not recognized in whole or in part,

"(C) in a transaction between parties whose relationship is described in section 267(b),

"(D) to the estate of a decedent by reason of the death of such decedent, or

"(E) in a transaction for which the taxpayer elects to return income under section 453 (relating to the installment method),

shall not be treated as a disposition.

"(2) TRANSFEREE SUCCEEDS TO THE DEFERRED DEDUCTION ACCOUNT.—In the case of any transfer described in subparagraph (A), (B), (C), or (D) of paragraph (1) (other than a transfer also described in subsection (e)), the transferee of the property shall succeed to the deferred deduction account of the transferor with respect to such property.

"(e) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of this subpart—

"(1) TRANSFER BY DEATH.—In the case of the transfer of property by reason of death (other than a transfer to the estate of the decedent), the basis of the property in the hands of the transferee immediately after the transfer shall be the higher of—

"(A) its basis determined under section 1014(a) (relating to basis of property acquired from a decedent), or

"(B) the sum of (i) the lower of the adjusted basis of the property in the hands of the decedent or the fair market value of the property at the time of his death, and (ii) the balance in the deferred deduction account with respect to such property at the time of the transfer.

If any transfer referred to in the preceding sentence is a transfer from the estate of the decedent, the basis so determined shall properly reflect adjustments to basis during the period the property was held by the estate.

"(2) CORPORATIONS OR OTHER PERSONS TO WHICH SUBPART DOES NOT APPLY.—In the case of any transfer described in subparagraph (A), (B), (C), or (D) of subsection (d)(1), if the transferee of any property is a person which is not subject to this subpart, then the basis of the property in the hands of the transferee shall be increased by the balance in the deferred deduction account with respect to such property in the hands of the transferor.

"(3) INSTALLMENT SALES.—In the case of a transaction described in subsection (d)(1)(E), the final payment on the obligation or the disposition of the installment obligation (within the meaning of section 453(d)) shall be treated as a disposition.

"SEC. 470. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subpart—

"(1) CONSTRUCT.—The term 'construct' includes reconstruct and erect, and the term 'construction' includes reconstruction and erection.

"(2) CONSTRUCTION PERIOD.—The term 'construction period', when used with respect to any item of property described in section 467(a)(1), means the period—

"(A) beginning on the date on which construction of the building or other improvement begins; and

"(B) ending on the date on which the item of property is ready to be placed in service or is ready to be held for sale.

"(3) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means property which is or can reasonably be expected to be—

"(A) residential real property as defined in section 167(j)(2)(B), or

"(B) real property described in section 1221(1) held for sale as dwelling units (within the meaning of section 167(k)(3)(C)).

"(4) FARMING.—The term 'farming' means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of animals. For purposes of the preceding sentence, trees shall be treated as an agricultural or horticultural commodity.

"(5) EXPLORATORY WELL.—The term 'exploratory well' means any well—

"(A) each point on which, at the time such well is completed, is more than 2 miles from the nearest point on the nearest producing well, or

"(B) which—

"(i) is completed 2 years or more after the completion of the last producing well which does not meet the requirements of subparagraph (A), and

"(ii) the taxpayer establishes (in the manner provided in regulations prescribed by the Secretary) by maps and other evidence that the well will not tap any reservoir from which there has been significant oil or gas production.

Subparagraph (B)(ii) shall be treated as not having been met with respect to any well if, on completion of such well, the bottom hole pressure or any other evidence indicates that there has been significant oil or gas production from any reservoir tapped by such well.

"(b) SPECIAL ADJUSTED GROSS INCOME RULE FOR FARMING.—

"(1) ACCELERATED DEDUCTIONS NOT DEFERRED WHERE NONFARM ADJUSTED GROSS INCOME FOR TAXABLE YEAR DOES NOT EXCEED $20,000.—In the case of any individual (other than a trust), subsections (a) and (b) of section 466 shall not apply to deductions attributable to a class of property described in section 467(a)(3) if the individual's nonfarm adjusted gross income for the taxable year does not exceed $20,000.

"(2) PHASEOUT BETWEEN $20,000 AND $40,000.—In the case of any individual (other than a trust), subsections (a) and (b) of section 466 shall not apply to so much of the excess for the taxable year of the accelerated deductions described in section 468(c) over the net related income from farming as does not exceed the excess of $40,000 over such individual's nonfarm adjusted gross income for the taxable year.

"(3) NONFARM ADJUSTED GROSS INCOME DEFINED.—For purpose of this subsection, the term 'non-farm adjusted gross income' means adjusted gross income computed without regard to income or deductions attributable to the business of farming.

"(4) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual filing a separate return for the taxable year, in applying paragraph (1) and (2) the items referred to therein of both spouses shall be combined. For purposes of this paragraph, marital status shall be determined under section 143.

"(c) SUBPART NOT TO APPLY TO CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—This subpart shall not apply to real property the construction period for which begins before January 1, 1976.

"(2) RESIDENTIAL REAL PROPERTY.—This subpart shall not apply to residential real property.

"(d) OTHER SPECIAL RULES.—

"(1) BASIS ADJUSTMENTS UNDER SECTION 1016.—Any deduction not allowed for the taxable year by reason of section 466(a) shall be treated as allowed for such year for purposes of section 1016 (relating to adjustments to basis).

"(2) DEDUCTION OR INCOME ATTRIBUTABLE TO MORE THAN ONE CLASS OF PROPERTY.—If any deduction or income is attributable to more than one class of LAL property or to more than one LAL disposition class, such deduction or income shall be allocated to one of such classes or among such classes in accordance with regulations prescribed by the Secretary.

"(3) DETERMINATION OF STRAIGHT LINE DEPRECIATION FOR LEASED PROPERTY.—In determining what depreciation would have been for leased property under the straight line method, rules similar to the rules provided by section 1250(b)(2) shall apply.

(4) PARTNERSHIPS.—For purposes of this subpart—

(A) ITEMS TREATED AS HELD DIRECTLY BY PARTNERS.—Any item of property held by a partnership shall be treated as held by each partner in accordance with his distributive share of the taxable income or loss (whichever applies) of the partnership for the taxable year.

"(B) DISPOSITIONS OF PARTNERSHIP INTERESTS.—The disposition of any partner's interest in the partnership shall be treated as a disposition of the partner's interest in each item of property.

"(5) COORDINATION WITH CERTAIN RECAPTURE SECTIONS.—In applying sections 1245 (relating to gain from dispositions of certain depreciable property), 1250 (relating to gain from dispositions of certain depreciable realty), 1251 (relating to gain from disposition of certain farm recapture property), 1252 (relating to gain from disposition of farm land), and 1254 (relating to gain from disposition of interest in oil or gas property), the adjustments to basis taken into account for purposes of such sections shall properly reflect any adjustment to basis provided by this subpart.

"(6) COORDINATION WITH CERTAIN OTHER PROVISIONS.—This subpart shall be applied after section 461(g) (relating to accrual of prepaid interest), after section 464 (relating to deductions limited to amount at risk in case of films, livestock, and certain crops), and after the second sentence of section 263(c) (relating to intangible drilling and development costs)."

(b) TECHNICAL AMENDMENTS.—

(1) EACH PARTNER MAKES SEPARATE ELECTION.—Section 703(b) (relating to elections of the partnership) is amended by striking

out "or under section 163(d)" and inserting in lieu thereof "under section 163(d)", and by inserting after "investment indebtedness)," the following: "or under section 467(b)(3) (relating to election to aggregate residential real property for purposes of limitation on artificial losses),".

(2) PERCENTAGE DEPLETION.—Section 613A (relating to limitations on percentage depletion in case of oil and gas wells) is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH LIMITATION ON ARTIFICIAL LOSSES.—For purposes of subsection (d)(1) and section 613(a), taxable income for any taxable year shall be determined without regard to subpart D of part II of subchapter E of this chapter (relating to limitation on artificial losses)."

(c) 10-YEAR SPREAD OF ADJUSTMENTS WHERE TAXPAYER CHANGES TO ACCRUAL METHOD OF ACCOUNTING WITH RESPECT TO FARMING.—If, for his first taxable year ending after December 31, 1975, a taxpayer referred to in section 466(a)(2) of the Internal Revenue Code of 1954 computes his taxable income from farming on an accrual method of accounting and with the capitalization of preproductive expenses described in section 468(c)(1) of such Code, and if such method of accounting constitutes a change in his method of accounting with respect to his taxable income from farming, then—

(1) such change shall be treated as having been made with the consent of the Secretary of the Treasury.

(2) for purposes of section 481(a)(2) of such Code, such change shall be treated as a change not initiated by the taxpayer, and

(3) under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481(a) of such Code to be taken into account by the taxpayer in computing taxable income shall (except as otherwise provided in such regulations) be taken into account in each of the 10 taxable years beginning with the year of change.

(d) CLERICAL AMENDMENT.—The table of subparts for part II of subchapter E of chapter 1 is amended by striking out the item relating to subpart D and by inserting in lieu thereof the following:

"Subpart D. Limitation on artificial losses.
"Subpart E. Inventories."

(e) EFFECTIVE DATES.—

(1) GENERAL RULE FOR REAL PROPERTY, FARM PROPERTY, AND OIL AND GAS PROPERTY.—Except as provided in paragraph (6), in the case of property described in paragraph (1), (3), or (5) of section 467(a) of the Internal Revenue Code of 1954 (as added by subsection (a)), the amendments made by this section shall apply to amounts paid or incurred after December 31, 1975, in taxable years ending after such date.

(2) GENERAL RULE FOR LEASE PROPERTY AND MOVIES AND VIDEO TAPES.—Except as provided in paragraphs (3) and (4), in the case of property described in paragraph (2) or (4) of section 467(a) of the Internal Revenue Code of 1954, the amendments made by this section shall apply to amounts paid or incurred after September 10, 1975, in taxable years ending after such date.

(3) SPECIAL RULES FOR LEASE PROPERTY.—

(A) IN GENERAL.—In the case of property described in section 467(a)(2) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply with respect to—

(i) leases entered into before September 11, 1975;

(ii) leases where the property was ordered by the lessor or lessee before March 11, 1975, and such property is placed in service before January 1, 1976; and

(iii) leases where the lessor is a partnership formed before September 11, 1975, for the purpose of acquiring and leasing personal property, the property was ordered before September 11, 1975, by the person who becomes the lessee, and the property is placed in service before January 1, 1976.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A)(i).—Subparagraph (A)(i) shall apply only to taxpayers who held their interests in the property—

(i) on September 11, 1975, or

(ii) in the case of property placed in service before January 1, 1976, on December 31, 1975.

(C) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A)(ii) and (iii).—Clauses (ii) and (iii) of subparagraph (A) shall apply only to taxpayers who held their interests in the property on December 31, 1975.

(4) SPECIAL RULE FOR MOVIES AND VIDEO TAPES.—

(A) IN GENERAL.—In the case of property described in section 467(a)(4) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to—

(i) deductions for depreciation or amortization with respect to property the principal production of which began before September 11, 1975, and for the purchase of which there was on September 11, 1975, and at all times thereafter a binding contract, and

(ii) deductions attributable to producing, distributing, or displaying property the principal production of which began before September 11, 1975.

(B) EXCEPTION FOR CERTAIN AGREEMENTS WHERE PRINCIPAL PHOTOGRAPHY BEGINS BEFORE 1976.—In the case of property described in section 467(a)(4) of the Internal Revenue Code of 1954, the amendments made by this section shall not apply to deductions attributable to the producing of a film the principal photography of which began on or before December 31, 1975, if—

(i) on September 10, 1975, there was an agreement with the director or a principal motion picture star, or on or before September 10, 1975, there had been expended (or committeed to the production) an amount not less than the lower of $100,000 or 10 percent of the estimated costs of producing the film, and

(ii) the production takes place in the United States.

Subparagraph (A) shall apply only to taxpayers who held their interests on September 10, 1975. Subparagraph (B) shall apply only to taxpayers who held their interests on December 31, 1975.

(5) TREATMENT OF DEPRECIATION AND AMORTIZATION.—For purposes of this subsection, any amount allowed or allowable for depreciation or amortization for any period shall be treated as an amount paid or incurred for such period.

(6) SPECIAL RULE FOR GROVES, ORCHARDS, AND VINEYARDS.—The amendments made by this section shall not apply to that part of a grove, orchard, or vineyard which was planted before September 11, 1975.

(7) SPECIAL RULE FOR SPORTS FRANCHISES.—In the case of property described in section 467(a)(6) of the Internal Revenue Code of 1954, the amendments made by this section shall apply in the case of franchises established or transferred after November 4, 1975 (or pursuant to a binding contract in existence on such date and at all times thereafter), in taxable years ending after such date.

SEC. 105. AMENDMENT OF SECTION 167(k).

(a) EXTENSION FOR 2 YEARS.—Paragraph (1) of section 167(k) (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1976" and inserting in lieu thereof "January 1, 1978".

(b) INCREASE IN AGGREGATE EXPENDITURES TAKEN INTO ACCOUNT WITH RESPECT TO ANY DWELLING UNIT FROM $15,000 TO $20,000.—Paragraph (2)(A) of section 167(k) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to expenditures incurred after December 31, 1975.

Mr. HASKELL. Mr. President, I think this is an appropriate time to discuss the LAL provision.

I would like to ask the chairman of the Finance Committee if he would prefer to proceed and indicate his preference to strike these provisions. I could follow with the reasons I do not concur. It makes no difference to me.

Mr. LONG. Mr. President, I explained in my opening statement why the provisions should be stricken. Let me just explain briefly the problems involved.

In the first place, this LAL provision, or so-called limitations on artificial losses, is extremely complex.

If this were in the law, it would be the most complicated provision of tax law ever voted by any English-speaking body. Of that I am sure, because I defy anybody to show us here how this proposal would work; that is, if he is going to say anybody agrees, because nobody can agree on how it would work.

It would require substantial additional bookkeeping on a cost accounting basis by individual taxpayers.

Here is the catch. When we undertake to do a tax return and start allocating expenses, there is no agreed cost accounting method, even among the accountants, as to how we would do it.

In other words, a number of different cost accounting procedures are used by accountants. Each of them has certain strong points and certain weak points. Each of them can be contended to be a good way and, depending upon a particular situation, one would be more appropriate than another. But accountants themselves cannot agree on that.

It is not specified, and no one would know, just which accounting procedure would be the best to use under a given set of circumstances. So there is no way anybody can read that law and tell us which cost accounting method is to be used.

Under the circumstances, Mr. President, I believe people would find we cannot even find two accountants or two tax lawyers, who are also CPA's, who could figure tax liability under these provisions and arrive at the same figure, even if they were members of the same firm.

If we put them in two separate rooms, they could not come up with the same figure, even though they both went to the same school.

Mr. TALMADGE. Is it not true under the taxing provisions which came over from the House, under certain conditions the taxes a person has already paid could not be deducted?

Mr. LONG. Yes, that is part of it.

But in order to say what one can and cannot deduct, he would say he relies upon accounting practices, and accountants themselves cannot agree on what the accounting practices ought to be, so how can we allocate costs?

Mr. President, this is the most impossible matter for anyone to try to com-

pute that has even been put in the tax law, recommended anywhere by anybody. I await with interest to see how well the advocates of this procedure can defend it.

In my judgment, Mr. President, it is hard enough already to have the Secretary of the Treasury going around the Nation making speeches, as he did in New York to the Tax Foundation, where he had a standing ovation.

He said in his speech that the law is so complicated even now that two Internal Revenue agents seeking to assess a taxpayer cannot agree on what the taxpayer owes, so that by the time they get through with their accountants and lawyers, trying to assess the tax, one agent thinks he owes one figure and the other thinks he owes a different figure, and neither one can agree among themselves what the taxpayer owes.

So how can the taxpayer say what he owes when even the lawyers cannot tell him, because the two agents cannot agree?

Mr. TALMADGE. Does not the LAL add 33 more pages of complexity?

Mr. LONG. All I am saying, Mr. President, is that the Senator is exactly correct. It is more than 32. But it is not the number of pages, it is that these 32 pages contain the most incomprehensible, complicated, impossible provision to administer that has ever been conceived by the mind of man.

As it already stands, we are confronted with the problem that the Internal Revenue agents, be they lawyers or accountants, cannot agree on what a taxpayer owes the way it is now.

All I am saying is, "You ain't seen nothing yet."

This LAL proposal makes it 10 times as bad. There is no way one can hope for a taxpayer to compute his own liability. Even if he hires a lawyer, there is no way that one can expect a lawyer, even if he is an accountant as well, to come up with the figure that the Treasury will agree to, and there is no way we can expect two Treasury agents, be they acountants or lawyers, to agree that that figure is correct.

That is what we are up against when we try to move in this area. It will result in endless arguments, and there is no way on earth that anybody could ever arrive at the proper figure that a taxpayer should pay.

In the second place, this LAL provision, insofar as it could be enforced, would have the adverse effect of cutting back on the economy by cutting down on investments in the areas that are covered. This would be true in whatever area it applies. For example, in the housing industry, in the construction industry, in the oil and gas industry, in the farm economy, in the movie industry, in the equipment leasing industry, or in sport franchises.

I find it amusing, Mr. President, that the principal difference between the House bill and the substitute being offered by these Senators is that they would exempt residential real estate, residential housing, from this provision. Why? I can only assume that it is because during the consideration of this bill the home builders came to town, held a convention, and discussed this matter as to what it meant. Then they came down and talked to their Senators.

After they talked to the Senators, even the sponsors of the amendment agreed that the residential homebuilders should not be required to try to live with this proposal.

It is too bad that all the other construction industry members could not have been in town to talk with their members, too bad the energy producers could not have come to town, too bad the farmers could not have come to town, too bad the movie people could not have come to town, too bad the sports franchise people could not have come to town, and tell their Senators the same message that our distinguished Members gained after they talked to the homebuilders.

Mr. PACKWOOD. Will the Senator yield?

Mr. LONG. I yield.

Mr. PACKWOOD. I just want to ask one question. Perhaps the Senator from Wisconsin, or others, can answer it.

In the amendment offered on the House LAL provisions, they did not have any exemption on residential real property. Has that been included in this or not?

Mr. LONG. They have.

Mr. HATHAWAY. The substitute, if adopted, would include residential property.

Mr. PACKWOOD. So it does differ from the House in that particular?

Mr. HATHAWAY. That is the only respect.

To answer a question of the Senator from Louisiana, the Senator from Louisiana well knows that in trying to put together a package, such as the group of us tried to put together, we have to make compromises with various individuals in order to get as broad a base of support as possible. Ideally, if I were voting on it, I would not exempt residential real estate. But some of those who wanted to support it said, "I will support it only if you exempt residential real estate."

We have the same problem with respect to deferral and all the other aspects of the package.

It is not an ideal package. It is not one upon which all of us were in entire agreement. But, as the Senator knows, in making up a package one has to compromise in areas in order to get a broad base of support.

Mr. LONG. Mr. President, this I predict to come: As much as I respect the wisdom of Senators leaving out anybody, be it residential housing or anybody else, I predict with confidence that they will never succeed in explaining this proposal to the satisfaction of anybody to whom it is applicable. That I will guarantee beyond any peradventure of doubt.

Mr. CURTIS. Will the Senator yield?

Mr. LONG. I yield.

Mr. CURTIS. I thank my distinguished chairman. I commend him for the position he takes on this.

Mr. President, if there is one thing the people are crying for now, it is simplification. The simplification cannot ever reach the ultimate because life is complicated, our businesses are intricate, and so on. But certainly Congress should not deliberately make something more complicated.

I would like to call the attention of the Senate to the hearings, part one, page 354, where a witness, Mr. Faber, testifies. He testified against LAL, not because he wanted to preserve a loophole, but he testified against the procedure involved.

This loophole is closed by the Committee on Finance elsewhere in the bill. So this is an exercise to complicate, nothing more. Here is what Mr. Faber said:

> On pages 7 through 15 of my written testimony, I have sketched the steps necessary for a general practice lawyer to answer a very simple question if his client asks it: What is the effect of LAL on me if I invest in real estate? Let me state in order to do this research, a very simple job, the lawyer would have to go through numerous separate steps involving review of 26 separate Code revisions and having done that he would not have a clear answer for his client.

The LAL provision has 26 changes in the code and a lawyer would have to go through all of them.

At the end, he would not know how to advise his client. The details are right there on pages 354, 355 and 356.

If the Finance Committee, after weeks of hearings, had not dealt with this loophole, then there would be some reason for hastily getting up some language here, even though it would be very objectionable. But that is not true.

The abuses in this particular instance have been taken care of, so this is an exercise in order to make life complicated for taxpayers. That is what is involved here.

Also, there is reliable testimony to support the position that if the Senate should adopt this LAL language, it is so complicated it would stifle a lot of activity and a great amount of revenue could be lost.

The Treasury will gain more money under the Finance Committee's language than they will ever gain from this LAL language.

One witness, I believe his name was Mr. True, testified that these complications, this stifling activity, this calling something artificial when it is not, would result in over $2 billion in lost revenue. He may be wrong, but I am sure he is right, that it would cause some loss of revenue.

I thank my chairman for yielding.

Mr. LONG. Mr. President, Senators, especially those who are lawyers—anyone who has ever dealt with a tax problem or any accountant, be he a CPA or otherwise—will enjoy reading what I am getting ready to place into the record. It is the testimony to which the Senator just referred in which a tax lawyer explains what his problem would be if his client came to him wanting to know whether he should go into a business venture to build a shopping center, build an office building, or do any one of a great number of things that businessmen do which is good for the economy.

That tax lawyer explained all the steps one would have to go through to try to be in a position to advise his accountant, all the time that it would take, over a period of 2 or 3 days, and after he gets

through with that, he finally concludes this way:

Having (he hopes) completed his research, he calls up his client and tells him that he is not absolutely sure that he thinks there may be a problem. He discusses some of the principles involved, including additional record keeping expenses, at which point his client cuts in with an exasperated tone and says "look, I don't care about all these fancy rules, should I buy that property or shouldn't I?" At this, the lawyer shouts into the telephone "how should I know, ask your Congressman!" and hangs up in disgust.

That is the kind of law our friends want to get us. So I say to the Senator, "If we put this thing on the statute books, your friend is going to be asking you, 'What shall I do, my lawyer cannot tell me?' And you are not going to be able to tell him."

I am anxious to see if my able friend, who is a good lawyer and knows a great deal about taxes, can tell us how this lawyer could advise his client, after going through all this rigamarole, with certainty whether he should or should not go into the business venture the client was considering.

Here was a proposition that might be a good deal, or might not, depending on the construction one places on the law, and when the best tax lawyers cannot tell you what it means, or whether a client can do certain things or he cannot, and what the tax liability would be. When the best tax lawyers in America cannot tell us what we are going to owe, but that it all depends on how the law will be construed, I wonder if the American people are not entitled to a better tax law than that.

Mr. HASKELL. Mr. President, will the Senator yield for a few comments?

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

Mr. HASKELL. I thank the Senator.

Mr. President, we have to put LAL in context. We have to go to the facts, and this was in the House report, recognize that our tax laws are shot through with artificial deductions—"Artificial" is a mild word; "phony" is perhaps more accurate and would be more readily understood.

Let me give a few examples

It makes sense to say "if I buy something and use it in business and it wears out, I am entitled to depreciation." But we also have been saying, "you can take twice the normal depreciation." That is clearly a phony deduction.

The House report points out that an artificial deduction is one not related to actual expense. An example of artificiality—and really it is so crass that I do not think most people believe that such things could exist in the Internal Revenue Code—we provide from the U.S. Treasury an amount equal to 10 percent of the cost of any equipment bought by anybody in business.

My car is wearing out, and I would be delighted if the U.S. Government would pay me 10 percent of the purchase price of a new car. They are not going to do that, and they should not do it in any instance.

Nevertheless the committee recommends a change in the Internal Revenue Code to make permanent an arrangement whereby, if DuPont, General Motors, Exxon, or any other business enterprise buys a million dollars, a hundred thousand dollars, or ten thousand dollars worth of equipment, the American taxpayer is going to pay 10 percent of the purchase price.

This is a ripoff. I think it is a little hard to understand how it got there. The people who are for the investment tax credit say it is a great thing for corporations to get equipment, and it is going to create jobs, and people are going to be able to sell equipment. The idea, basically, is to provide a subsidy for those who are in a position to buy all this expensive equipment.

Mr. President, this is the Calvin Coolidge trickle-down theory of economics. In my view, the way to stimulate the economy is to increase the purchasing power of people generally.

The distinguished Senator from Louisiana and the distinguished Senator from Nebraska say, as to the LAL provisions, "Well, they are complicated," and they point out that simplicity is very desirable.

If I had my "druthers" I would eliminate these artificial deductions, and in so doing I could get rid of quite a few sections of the Internal Revenue Code. As a matter of fact, I would not only get rid of the sections that bring in the artificial deductions, but also the sections that try to balance the results of them, the various recapture provisions. I will have an amendment to do that, and the Senate will have an opportunity to vote on it, to try to put some equality into the tax laws.

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

Mr. HASKELL. If the Senator will let me finish.

It will raise about $15 billion in revenue, and return the revenue to small businesses and to citizens generally through a reduction of social security taxes, which is really the way to stimulate the economy, really the way to put purchasing power into the economy, by going at it directly.

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

Mr. HASKELL. I shall yield in a moment. I think we have to attack the worst aspects of these various loopholes, and this is really what LAL seeks to do.

The individual with a $200,000 or a $100,000 income can use these various artificial deductions and in effect make all of us a partner with him in his drilling deal, in his real estate deal, or in his movie production, by making the U.S. Government pay a good portion of his investment. That is because these artificial deductions allow an offset against substantial salary or investment income.

All we are trying to do is not permit such an individual to have the U.S. Treasury bear the brunt of the investment that he is making in something not related to his normal business activities. I admit that the LAL is complicated, but of necessity it must be, if we feel that this is a desirable end.

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

Mr. HASKELL. I think the Senator from Georgia was the first to request me to yield.

Mr. TALMADGE. I thank the distinguished Senator, our colleague from Colorado, a member of the committee.

The Senator has addressed himself not only to LAL but also to the investment tax credit and other provisions of the bill.

Will the Senator yield for one or two questions?

Mr. HASKELL. I am delighted to yield.

Mr. TALMADGE. One of the provisions we stuck on LAL in the House bill was as to these matters that could not be deducted under the LAL provision; in general, that was any amount which is attributable to crops. Will the Senator explain how that provision of LAL would work?

Mr. HASKELL. Will the Senator refer me to the exact language?

Mr. TALMADGE. It is on page 15 of the bill, "Preproductive Period Expenses."

Mr. HASKELL. Page 15 of H.R. 10612?

Mr. TALMADGE. Yes, on line 9.

Mr. HASKELL. Line 9. OK.

For purposes of this subpart, the term "accelerated deduction", when used with respect to a class of property described in section 467(a)(3), means

(1) Preproductive Period Expenses. (A) In general. Any amount which is attributable to crops, animals, or trees (or to any other property having a crop or yield) during the preproductive period . . .

I believe that that would be an attempt to get at the following tax shelter practice by people, I should point out, who are not in the farming business, not real farmers.

Mr. TALMADGE. It does not say that. It says any amount attributable to crops.

Mr. HASKELL. If the Senator will allow me to continue, the whole concept of LAL is not to touch the farmer or the realtor. But it would be very advantageous for an outside individual in a year of high income to prepay an entire year's supply of feed in advance and that I believe is what is referred to as the preproductive period expenses. But I point out, so the record is clear, that the whole concept of LAL is to prevent the use of these various deductions by high-income people not in the business.

Mr. TALMADGE. I am not talking about prepaid feed. I am talking about the concept of the language of this bill. He could not deduct any amount which is attributable to crops. How is the farmer going to allocate that? Is fertilizer attributable to crops? Is insecticide attributable to crops? Is a tractor, supplies, gas, and oil attributable to crops?

Mr. HASKELL. In the first place, we are not referring to people who are in the farming business.

Mr. TALMADGE. We are. That is what it says.

Mr. HASKELL. We are referring to doctors, lawyers, executives, and other people in a high-income tax bracket who buy into a syndicated operation.

Mr. TALMADGE. I am not talking about lawyers and doctors. I am talking about crops.

Mr. HASKELL. What I am saying is

that the syndicates take these prepaid expenses, and amortize them over the actual productive period of the farm, the orchard, or in the case of animals being raised, the animal's productive life.

Mr. TALMADGE. I think we closed that loophole on prepayment of feed. The Senator voted and so did I. But as to this provision of the act, and I am asking the Senator, he changes the subject on me and he talks about nonfarmers instead of farmers.

I am talking about a farmer who has to keep the records of his costs of production. Yet this language in the bill prohibits him from deducting any amount which is attributable to crops, animals, or trees. How is a farmer going to farm if he cannot deduct his cost of producing crops, animals, or trees?

Mr. HASKELL. I point out to the Senator that all these deductions are deductions to the extent that the syndicate has income from the operation and they are merely to the extent——

Mr. TALMADGE. This is not the syndicate provision.

Mr. HASKELL. Will the Senator repeat his remark?

Mr. TALMADGE. This is not the syndicate provision. This is an individual.

Mr. HATHAWAY. If the Senator will yield, as to these provisions, in section 468 on page 13 we talk about accelerated deductions. These are the deductions that are going to go into the LAL so it will not affect the individual farmer except to the extent that he has outside income above $20,000.

So he can take these deductions as he has been taking them in the past. This is simply the laundry list of those deductions which would have to be put into the deferred account.

Mr. TALMADGE. If the Senator will yield, it does affect the farmer if he has outside income.

Mr. HATHAWAY. Yes. There is a provision, and I do not have the section of the bill in front of me, which states that with respect to farm income there is a dollar for dollar offset on outside income above $20,000, so that if his outside income is above $40,000, he would be subject to the LAL provisions.

Mr. TALMADGE. It would affect the farmer under those conditions.

Mr. HATHAWAY. As far as the farmer is concerned, if he obtains all his income from farming, he is not concerned with this list at all. It is the person on the outside who is concerned about how many of these deductions he can take against his outside income. The House provision, of course, limits him, as I mentioned, to $20,000, taking off dollar for dollar above that up to $40,000 and then eliminates it all together. Of course, he has the additional advantage of taking these deductions up to the net income from the farming operation itself.

Mr. TALMADGE. A great many farmers, as the Senator knows, do have outside income. In my State usually some member of the family has to work in town to support the farm. We have many farmers whose wives are teaching school, many others who are working in textile plants, and many other members of the family doing public work, and so on. Yet this would put an impossible condition on a farmer. If he has outside income, he could not deduct expenses of producing his crop. That is what the Senator's provision would do.

Mr. HATHAWAY. That is up to $20,000, with a dollar-for-dollar reduction above $20,000. When his outside income reaches $40,000, of course, that would erase the entire first $20,000.

Mr. TALMADGE. How is the farmer going to know whether his income will be $20,000 from outside income? How is the farmer going to know whether or not his outside income will get to $20,000?

Mr. HATHAWAY. He would know that at the end of his taxable year how much money he made on the outside, I presume.

Mr. TALMADGE. If he happens to sell a piece of real estate and receives $1 over then he could not deduct expenses of producing his crop?

Mr. HATHAWAY. It would be a dollar for dollar reduction above $20,000 so when he reaches $40,000 dollar for dollar that would eradicate the entire first $20,000.

Mr. TALMADGE. The Senator would not recommend someone in Maine to go into farming on that sort of basis if he could not deduct the cost?

Mr. HATHAWAY. I do not know many farmers in Maine making $20,000 in outside income.

Mr. TALMADGE. People have important potato crops in Maine.

Mr. HATHAWAY. Many farmers are involved in making money selling potatoes, and it is the same for dairy farmers and poultry farmers.

Mr. TALMADGE. The Senator would not want his poultry farmers, dairy farmers, and potato farmers in Maine being in the incongruous position where they could not deduct the cost of producing the crop, would he?

Mr. HATHAWAY. He can deduct that against the income of the farm and deduct what we have been talking about with the limitation on his outside income of $20,000 tapering off dollar for dollar above that. That is what his limitation is. I do not have the benefit of the hearings before me to determine how the House decided to draw the line at $20,000. Maybe it could be raised. Maybe it should be lowered. It seems to me it is a reasonable requirement to make. The farmers can be the beneficiaries of these shelters as much as other people can.

Mr. TALMADGE. I thank the distinguished Senators from Colorado and Maine for yielding. I still disagree with the premises that the farmer ought not to be able to deduct the cost of producing his crop. I yield the floor.

Mr. HATHAWAY. Mr. President, I believe that the Senator from Colorado still has the floor.

Mr. President, I just want to make this point, while we are on the point about the complexity that this LAL provision is supposed to give us.

I am sure that if we had enacted a benefit for those who are getting shelters and made the shelter more attractive, regardless of how complicated the accounting procedures might be, we would not be hearing any squawk about it. Regardless of that, I am sure that if there are complications in the accounting for the various losses and expenditures and costs, they can be handled adequately, as they have been in the past, through proper regulations by the Treasury.

The Internal Revenue Code is complicated. We have many other complicated provisions of the code. Most of them are enacted for some purpose.

We are dealing in a very complicated area, and I think we have to expect complications. The fact that a person has to go through various exercises in order to determine just how the outside investor's income is going to be determined under this bill is really no different from other sections of the law.

You can point to almost any section of the law and say, "What does this really mean?" We do not know, and we go to the treasury regulations, and perhaps they do not explain it. So we have to go to a tax court decision or an IRS ruling of some kind. Often, as any of us know who have helped clients prepare their tax returns, it takes a considerable amount of time to determine just what the law is with respect to almost any problem that might arise under the Internal Revenue Code. So I do not think that is a valid objection.

The other objection I heard this morning is that the Senate provision is a lot simpler and takes care of the shelters as well as the House does, so why accept the LAL provision? Let me read some of the differences in the revenue gains, without explaining the difference between the House and the Senate provisions.

With respect to real estate, for example, the House provision would save $112 million in 1977. The revenue saving in the Senate provision is $9 million.

As to the revenue saving in the provision with respect to movies, in the House it would be $32 million in 1977; it would be $26 million under the Senate provision.

Under the oil and gas provision, in the House there would be a $99 million saving in 1977 and only a $45 million saving under the Senate bill.

Mr. HANSEN. Mr. President, will the Senator yield on that point?

Mr. HATHAWAY. In all six of the tax shelters contained in title I of the bill there is a considerably greater tax saving under the House bill than under the Senate bill, so we cannot say that the Senate bill is as effective in eliminating the shelters as is the House bill.

I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I appreciate the Senator from Maine yielding.

When he speaks about the revenue losses that will result if the LAL provisions are stricken from the bill, is he not presuming that everybody is going to keep doing the same things they have been doing in the past, despite a very significant change in the tax law? Is that not a fact?

Mr. HATHAWAY. I am presuming that we are going to get the income tax from that income that has been sheltered by the various methods, the six methods we are talking about in title I of the bill.

Mr. HANSEN. I have talked with a lot of people. The present occupant of the Chair is my distinguished senior colleague from Wyoming, Senator McGEE. We have had visits from people in the homebuilding business in Wyoming, as well as visits from realtors and contractors. We have had people representing the low-income people who say that if we make a significant change in the LAL provision there, they will go out of business.

This concept of trying to encourage people with money, not necessarily in the building business, to invest their funds in operations that would look toward the building of homes for low- and moderate-income people, was premised on the presumption that you had to make it attractive for them to put their money in there. I do not think it follows at all that you can change that law and expect everybody to keep on doing what he has been doing. These men are not dumb. They are going to put their money where the chance of profit is greatest. If the law is changed, they are not going to be investing, as we have been told in Wyoming, in the building of low- and moderate-income housing.

I think that the estimates to which the Senator from Maine has referred are fallacious, when the presumption is made that everyone is going to keep doing the same thing he has been doing, despite the fact that the law has been changed and a much larger bite is taken out of the income that he hopes may partly be reflected in profit.

Mr. HATHAWAY. The question is, Are they going to do something else with that money? The money can be put into something else; it cannot be sheltered; so we are going to get the income tax from the other investment.

Mr. HANSEN. You pay income tax only when you make income.

Mr. HATHAWAY. But the Senator is not saying that a person is in the real estate business and is investing and has a tax shelter and cannot find any other place to put his money and make a profit.

Mr. HANSEN. That would depend on how successful he is.

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

Mr. HATHAWAY. I yield.

Mr. LONG. We agree that this revenue is based on the assumption that people will continue to do business the same way, and everybody knows they will not.

For example, look at the testimony of Mr. Allan King, who is an oil and gas producer. He presents a chart and explains how he does business. He explains that in order to stay in the oil and gas business, he must have a cash flow, because he cannot borrow money if his business is not generating a cash flow. Any businessman can understand that.

He further tells you that if you are going to put this LAL provision on him, in addition to all the other taxes he will have to pay, the only way he can protect his cash flow is to reduce his drilling activities, so he will drill fewer wells.

The same would be true of everybody else in the oil and gas business. The only way they can protect their cash flow is to drill fewer wells.

These independent people try to stay in business by finding someone who will put some money into their drilling operation, in any line of endeavor. The one way they can try to prevail on them to do it is to say that they would get a deduction in that tax year. The LAL would deny them that. That means that none of those people are going to put their money into it.

The people who would be working to drill oil wells, especially the independents, would have to lay off thousands upon thousands of people who would be working on drilling wells and providing services to get more energy. When those people are out of jobs, let us assume they try to find a job in the construction trade, building shopping centers or office buildings. Those people would be cutting back because of the LAL situation; and when they try to find someone to put money into a venture for an office building or a shopping center, the deduction they thought they would get would not be available to them, and they would not be interested in putting their money in.

We are told by Dr. Norman Ture that you can expect a reduction of 300,000 jobs in the real estate area alone. So they will be out of work, too.

Then, suppose they want to go into farming. The LAL also gets them in farming. So they will be cutting back in that area, too. Wherever you turn, here is somebody else cutting back.

We do not need more textiles; we cannot sell what we are producing now. We do not need more food. Really, we are producing enough to feed all our people the way it is now, and generally have a surplus. We do not need more automobiles; we are producing all we have a market for and we are worried about imports.

What do we need? The number one need, where we could put a million people to work if we were wise, would be energy. That is the area we would be cutting back on. In other words, in areas where we could provide the jobs, we put people out of work. It is a ridiculous thing to do if this is supposed to stimulate the economy.

If we do not need the jobs, do not produce any more underwear. I have all the underwear I have any use for now. Are we going to produce more shoes? We cannot compete with the Italians in shoes. Are we going to have more electronic equipment? The Japanese will take the market for that, between them and the Taiwanese. So we cannot produce more TV sets. That being the case, the area where we could produce more jobs is the area where we are going to put them out of work.

Mr. HASKELL. Norman Ture is the same man who predicted that if we had a tax cut, we would have 20 percent interest rates this year. So I do not think we think a great deal of Mr. Ture.

Mr. LONG. I say to the Senator, he is just like a lot of other people; sometimes he is right and sometimes he is wrong. I regret to say he is wrong on this one.

Mr. HATHAWAY. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. McGEE). The Senator from Colorado has the floor.

Mr. HASKELL. I shall be glad to yield the floor to the Senator from Maine.

Mr. HATHAWAY. I thank the Senator from Colorado.

In answer to the argument made by the distinguished Chairman of the Committee on Finance, let me say that his argument would be one that we could use against taking away or covering up any loopholes we have in the law, because we are supposed to be taking away a tax break from some individual that is going to be some loss. I agree with the Senator from Louisiana that the Federal Government ought to be helping out certain industries in this country, but I do not think we should be going about it in a helter-skelter manner and saying the movies need to be helped, sports franchises need to be helped. I do not think they are very high up on our priority list. Maybe they would be if we went over all of the more than 200 industries in this country and determined just how well they are doing and how much of a subsidy they need. I do not think it is a very good argument to make that if you take something away from this one, you are doing him a grave injustice and we are going to lose an awful lot of jobs.

Perhaps jobs would be lost in that industry, but I am sure that the money which would normally flow into that industry would go into another industry and create an equal amount of jobs in some other industries. I feel a dollar is a dollar is a dollar.

Mr. PACKWOOD. Will the Senator yield?

Mr. HANSEN. Will the Senator yield on that point?

Mr. HATHAWAY. I will in just 1 second.

Until we have extensive hearings to show just what our priorities are, of all the industries in this country, and how we should help them out, if at all, I do not think it is fair to pinpoint these three or these six that we are talking about now and say they need the help and we had better not take this help away from them.

In the second place, the kind of help we are giving them here is not true aid for our economic recovery. The people who invest on the basis of getting a tax shelter are not as interested in the prospering of the enterprise they are investing in as the person who is investing in that enterprise—the stockholders in that enterprise. The doctor, the dentist, the what-not who is trying to shelter his doctor's, dentist's, lawyer's or whatever income he has really is not interested in the economy of the particular industry in which he is investing; he is just investing to save himself from taxes. We know, from computing these various shelters, that even if the business loses, he can still make money.

Take the poultry industry, for example. The poultry industry itself wants us to get these people out of their business, because they are hurting their business. They are investing so much money, there are too many birds, they are flooding the market with them, too many eggs as well; the price is going down.

It is hurting the general poultry or egg farmer, so they want them out. In many other cases they want them out.

The point I am making is that these tax shelters provide, to be sure, capital flowing into these six industries that we are discussing, but it is not flowing in in a way that those who are benefiting from the shelter really care whether the industry survives or not. So we have a sort of distortion of capital flow in the economy by allowing these tax shelters to continue.

I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my colleague from Maine.

Mr. HATHAWAY. I guess I do not have the floor. The Senator from Colorado has it.

Mr. HANSEN. I think he yielded the floor to my colleague, who yielded to me.

I make two points: No. 1, the distinguished chairman of the Committee on Finance was not trying to say, at all, that every tax shelter should be continued. He is implying precisely the opposite. As a consequence of the extensive hearings which the Committee on Finance has participated in, and having gone through that experience of hearing from experts in many, many fields, the chairman of the Committee on Finance was saying that if we want to give encouragement where, indeed, we should be giving it, energy is one place where we ought to be doing it.

Anybody is concerned by virtue of the fact that we are importing more than 40 percent of the oil that we use today in the United States, anyone is concerned with the fact that 70 percent of the oil that has been discovered since we have been using oil in the United States is still in the ground and could be lifted if we would get people engaged in this business, searching. As the chairman pointed out, we could create one million jobs. We are paying out, I think, between $25 billion and $30 billion annually now to foreign countries. It constitutes a great drain on our balance-of-payments problems. It exacerbates the energy situation in this country insofar as national security goes. If we had another oil boycott, as we had here a couple or 3 years ago, we would actually have lights go out in important cities in the United States.

I can see that my chairman would like to make an observation.

Mr. LONG. Let me make this point, if I may. The amendments of the Committee on Finance seek to look at the problem and deal with the problem. We seek to deal with it in a way that can be administered, in a way that is fair, and in a way that is equitable. For example, in the farming syndicates; that is where a doctor or lawyer gets involved in a farming syndicate, because those people cannot very well put a few dollars into it and then go out and run the farm. We make those syndicates capitalize their investments so they only get the deductions if they actually lose money.

We also provide an at-risk provision, which the farmers think is a good idea, so that they can only claim a deduction or a loss to the extent that they took a risk. So this idea of letting somebody make money by going into a proposition that loses money is dealt with by the committee amendments other than the LAL.

We have pointed out that the LAL, one, just cannot be administered. It is so complicated that nobody can handle it. Furthermore, there is something else wrong about what those who would seek to strike this are trying to do. That is that in almost any business, one can expect that in the beginning, the business will have certain start-up expenses, which will mean that the business will lose money during the first year or so. Those are not artificial expenses. These are actual, out-of-pocket expenses that people have paid. That may be interest on a construction loan or it may be just an interest expense generally, or it may be various expenses of starting a business, a petroleum lease or anything else for the petroleum business. It might be some of the costs in a shelter area, such as accelerated depreciation.

The view of the committee is that, insofar as someone may have favorable tax treatment available to him if he goes into a certain line of business or undertakes a business venture, that favorable tax treatment should be available equally to all Americans who want to go into that business.

The position taken by those who advocate the LAL is that deduction is only available insofar as one has income from that business. Here is what that means: Those who are already in the business can have whatever favorable tax treatment the law would provide for those who are making money in that business. But woe unto anyone else who wants to put some money into it. It is a rule of "insiders in, outsiders out." It is a rule that those as has gets. If you have money, you have income, do not worry about that. The LAL will not bother you. If you are in that business, it is just great. If you are in the oil business and have a lot of income from it, that is fine. You can deduct expenses from income. But if you are a fellow who would like to invest some money, it is just too bad. If you are a newcomer, you cannot take it. You cannot deduct your expenses. That is only for the fellows who are established in that line of endeavor. That is un-American.

Mr. HANSEN. If I could say to my distinguished chairman at that point, since this is the Bicentennial Year of our great Nation, our great country, there has been an interesting series of articles in the Reader's Digest on "What America Means to Me," and what the chairman just now says recalls to my mind the comments made by James Michener. The No. 1 thing, the first point he made in trying to epitomize what America means to him, was that in this country, the United States of America, more than any other nation, any other place in the world, social mobility was assured.

A person who happened to come from a lowly farm family or a bricklayer's family or whatever his father's business may have been had a chance in America to climb the ladder if he wanted to and if he had the ability, and if he was willing to work. I think we do not want to do what those persons who say the LAL is good would, in effect, achieve. They would freeze it in. They would lock him out. They would say precisely what the chairman has said: Them as has gits and them as don't have can stay out in the cold."

I do not think anybody in his right mind wants to have written into the law something that is going to bring about that sort of result. I think that we are proud of the fact—I recall one of the statements that the present Ambassador to Italy, John Volpe made. He said that his family were poor immigrants, and his father was a brick mason. He will never forget the first time he carried a hod full of cement on his shoulder as a little kid in climbing up the ladder. He said his father took hold of the legs of that ladder and helped this young man, later to be Governor of Massachusetts, later to be Secretary of Transportation, later to be Ambassador to Italy, helped him put this hod on his shoulder and start up the ladder. He said he steadied him so that the ladder would not slip. But, he said, from there on after he took the first step "I was on my own."

That is America. That is the way we cannot get into farming or he cannot get into building or drilling or whatever. I happen to know some people in Wyoming who started out as roughnecks——

Mr. HASKELL. Mr. President, will the Senator yield at that point for just one sentence?

Mr. HANSEN. I would be very happy to.

Mr. HASKELL. There is nothing in LAL that says that I or anybody else cannot go into any business. What it does say is that those who are not in the business cannot take advantage of an artificial deduction, that is all.

Mr. PACKWOOD. But if you are in the business you can take advantage of artificial deductions; is that what the Senator is saying?

Mr. HASKELL. That is correct.

I would like to get rid of the artificial deductions, and I would be glad to sponsor a bill——

Mr. PACKWOOD. I want to encourage capital to come into these industries, and I hope the capital will come from doctors, lawyers, Indian chiefs, merchants or anybody else who has got the money to put into it.

But I am curious. First, let me ask, what is the Senator trying to do with these LAL's? Is the Senator trying to prevent these 244 millionaires or people who made over $200,000, whatever it was, is he trying to prevent them from escaping taxation? Is that part of it?

Mr. HASKELL. I think the Senator from Wyoming has the floor.

Mr. PACKWOOD. Mr. President, will the Senator from Wyoming yield to me?

Mr. HANSEN. Yes, I would be happy to without losing my right to the floor.

Mr. PACKWOOD. Is the Senator trying, with his LAL provision, to tax these people who pay no tax?

Mr. HASKELL. The basic purpose of the LAL is to prevent the high income tax people from using artificial deductions and thereby making the U.S. Govern-

ment bear part of their investment risks. That is the basis of LAL.

Mr. PACKWOOD. What is an artificial deduction?

Mr. HASKELL. Well, I have given the Senator several examples of them. It is a deduction that does not bear a relationship to current expense. That would be one definition.

Mr. PACKWOOD. Well, the Senator from Maine yesterday distributed an article by Hobart Rowen of the Washington Post and, in part, he said:

In the development stage a real estate project provides tax shelters by piling up taxes and interest costs before there is any substantial income from property.

Is that an artificial deduction, a phony deduction?

Mr. HASKELL. Would the Senator say that again?

Mr. PACKWOOD. Yes.

In the development stage a real estate project provides tax shelters by piling up taxes and interest costs before there is any substantial income from the property.

Is there an artificial or a phony expense?

Mr. HASKELL. Yes. Under normal accounting practices that would be capitalized. It is merely an option in the code to deviate from what is normal accounting practices.

May I refer the Senator to the report of the Ways and Means Committee on this bill.

Mr. PACKWOOD. I read it.

Mr. HASKELL. This is a definition of accelerated deductions.

Mr. PACKWOOD. We are not talking about accelerated deductions.

Mr. HASKELL. No; the accelerated deductions are by definition artificial.

Mr. PACKWOOD. Well, I am not even talking accelerated deductions.

Mr. HASKELL. Then, may I ask the Senator, what is he talking about?

Mr. PACKWOOD. What I am talking about is when you, as a lawyer or an insurance man or a small businessman decide you are going to put up a little piece of business property. You are going to invest $100,000 or borrow $90,000 of it and put up $10,000 and build a little store, put up a candy store, a grocery store, and a service station, and in order to build you borrow $90,000 and put up $10,000. You borrow $90,000, put a mortgage on your house and anything else. You pay 10 percent interest during those months of construction.

You have roughly $9,000 that your friendly banker expects you to pay cash out of your own pocket for. Is that a phony deduction?

Mr. HASKELL. No.

Let me say to the Senator, I do not quite understand. In the first place, I am going to build something, whether it be a candy store or apartment house——

Mr. PACKWOOD. Let us say you are a lawyer. Let us take a piece at a time.

Mr. HASKELL. I think I can perhaps answer your question. A carrying charge, under normal accounting practices, prior to getting the property into productive use under normal accounting practices is an item that would be capitalized, and just by special dispensation by a special section of the Internal Revenue Code you are allowed to expense what normally would be capitalized.

Mr. PACKWOOD. Under normal provisions the Senator is saying that the lawyer, the insurance man, anybody who might have an excess $10,000 and who borrows $90,000 and puts up this commercial building cannot expense it. But if you are in the real estate business you can expense it?

Mr. HASKELL. That is right. Would the Senator like to do otherwise? Would he like to take it away across the board? I think that would be fine.

Mr. PACKWOOD. I think that is what the Senator wants.

Mr. HASKELL. If the Senator would like to do that I will join him.

Mr. PACKWOOD. I do not want to do it. The Senator wants to do it, but I do not.

Where I say the unfairness of the Senator's proposition is twofold: First, what he is saying is he is not going to close tax shelters. There are still going to be millionaires making millions of dollars and paying no taxes. Under the Senator's proposal they will easily find a shelter to do it by, so we have not stopped the large taxpayer from paying no taxes.

Second, what the Senator is saying is if you are in the real estate business or in the oil business and you have millions of dollars or hundreds of thousands of dollars of income and you put your money into these particular ventures you are going to be able to go ahead and write off your losses. But if you are from outside that business, do not put your money in here. You say, "We do not want your money. We are going to give a break to the people who are in it but not those who want in." That is what the Senator's proposal is saying. This is not uniform treatment for all Americans. This is special treatment for those who have money, who are in the business.

That is unfair.

Mr. CURTIS. Mr. President, will the Senator yield? Is this based on the premise that "he who has gits?"

Mr. PACKWOOD. He who has and is in the business gets. It does not matter whether you have it or do not have it. You do not get it if you are not in the business at all.

Mr. LONG. Mr. President, who had the floor?

Mr. PACKWOOD. May I ask one further question? I do not understand. What is residential real property?

Mr. HASKELL. I suppose residential real property is something people live in.

Mr. PACKWOOD, Is that true of apartments?

Mr. HASKELL. The answer is "Yea."

Mr. PACKWOOD. Does it include condominiums?

Mr. HASKELL. Yes; that would be people living in condominiums.

Mr. PACKWOOD. Does it include mobile homes?

Mr. HASKELL. That is not real estate. I would have to ask the Senator the question on that whether a mobile home is real property.

Mr. PACKWOOD. It varies from State to State depending on how you choose to define it for taxes.

But, let us take apartments in condominiums. Your provision is not limited to low income housing. It is any kind of residential real property?

Mr. HASKELL. It says "residential property" and that is what it means.

Mr. PACKWOOD. So with all of these condominiums going broke anybody who has any money, and it does not matter who he is, who is looking for a tax shelter can go and build 400 apartment condominiums, and in the Senator's amendment write off all his losses occurring in the condominiums?

Mr. HASKELL. I think that would be true.

Mr. PACKWOOD. Why does the Senator make that exception in his provision?

Mr. HASKELL. I do not think that exception is particularly logical, may I say to the Senator. I am not defending that exception.

Mr. PACKWOOD. The Senator is not defending that exception and he is not defending the exception that allows people in the business to benefit from whatever losses they have, but people who are outside of it, the Senator does not defend that either?

Mr. HASKELL. If the Senator would let me answer, I think probably there is where a logical line can be drawn.

Let me say first that in all probability we should completely eliminate all these. That would be preferred, I think, as a course of events.

If Congress gives these artificial deductions, presumably they gave it for some reason. I do not know the reason was to allow people who are in the very high tax brackets to use the artificial deductions as a method of avoiding income tax. I believe the rationale of the LAL provision is to prevent that abuse.

Of course, you have to start with the assumption the Senator thinks the artificial deductions are good to begin with—which I do not.

As I say, I gather the Senator does not think they are very good, either.

Mr. PACKWOOD. The Senator said that for about the fourth time. I do not want the RECORD to show I am agreeing with the Senator any time he makes it. I do not agree.

Mr. HASKELL. Will the Senator repeat that?

Mr. PACKWOOD. I do not agree with the Senator's statement. To read that RECORD and see it is assumed that my distinguished colleague from Oregon agree with these artificial deductions and go on and assume I agree with the Senator.

Mr. HASKELL. Would the Senator mind making this clear?

Mr. PACKWOOD. What?

Mr. HASKELL. Making his position clear?

Mr. PACKWOOD. The Senator referred a while ago to the tax credit as a phony deduction, an artificial deduction. I do not think it is. I think we made a conscious position in the Finance Committee and in this Congress.

Mr. HASKELL. All right.

Mr. PACKWOOD. Let me finish. I want to make my position clear.

This Congress has formulated, when there are good ways; when we think it is

necessary to encourage investment, the capital is for the investment tax credit. I think it is a good provision. We can call it what we want, but I think it is a good position. The Senator thinks it is a phony or artificial position.

Mr. HASKELL. I think the Senator made himself clear on that.

What is the Senator's question?

Mr. PACKWOOD. I do not understand for the life of me, if the Senator does not believe that tax shelters are right, and wants to get rid of them, and people with lots of miscellaneous income cannot shelter the income by what the Senator calls artificial losses, why the Senator leaves in this provision to his amendment for residential real property. Why does the Senator not take it out?

Mr. HASKELL. If it were out, would the Senator vote for the amendment as a whole?

Mr. PACKWOOD. No.

Mr. HASKELL. Well, I think that is the answer.

Mr. LONG. Will the Senator yield at this point?

Mr. HANSEN. I am happy to yield to my distinguished colleague.

Mr. LONG. Mr. President, I find myself constantly amused by the Senator referring to these items as artificial deductions.

A man pays his taxes and he pays it with cash to the tax collector.

Mr. PACKWOOD. The bank will not take an artificial check.

Mr. LONG. So he pays the tax to the tax collector, for his taxes. The Senator says that is an artificial deduction. What is artificial about it? The money is gone.

Now, he pays an interest expense in cash. What is artificial about that? His money is gone. He will never see it again.

The Senator said it is artificial. He is out the money. It is gone.

The Senator wants to say that is artificial. Well, it may be artificial if that is the other man's money. If it is his money, there is nothing artificial about that, it is gone. That is the end of it.

If the Senator wants to sa ythat is an artificial deduction, his money is gone. He has been relieved of it. He paid it in taxes or in the bank in interest expenses and he went through cash. If the Senator wants to say something is fictitious about that, go see if he can get the money back.

As I said, when he gets the money back is when it gets to be fictitious. He does not get it back. He is out of his cash, has been separated from it.

The Senator would say that he would consider it a genuine loss if they are in that business and have income from that business. That would be a good solid deduction. It is an out-of-pocket expense if you are in that business, but if you are not, and some poor soul is trying to get into the business, that is too bad.

What justice is that? I thought every mother's son was allowed to get equal justice in this country.

Doing things like the Senator suggests would put us under an economic system like the cartels in Europe, in which a person's position is fixed for life.

That is just not the American way of doing business.

Mr. President, I submit that when somebody has paid an out-of-pocket expense, it is as real an expense for the fellow who is not in the business, as it is for the man who is in the business.

It was not the idea of the taxpayer that we would tax him on a year-by-year basis so that we would try to say, "How much did you make year by year?"

I did not want to make him close his books every year to see where he stands. That was the Government's idea to tax him that way. So he does not know whether he will make or lose money. But when he pays a direct out-of-pocket expense, the question is, can he deduct it. The Senator wants to say that it all depends, if he is in that business he can, if he is somebody that wants to get in that business, it is too bad.

What kind of justice is that?

Mr. BENTSEN. Will the Senator yield?

Mr. HANSEN. I am happy to.

Mr. BENTSEN. I am certainly in total concurrence with the chairman with respect to the proposed limitation on artificial losses. This is an unsound tax proposal which would defeat legitimate economic objectives of our country.

What we are trying to do is maintain an economy where new persons can enter an industry, and that includes young people coming out of college. However, LAL gives a competitive advantage to individuals already in an industry whether it be the building industry or farming and this is wrong. LAL discourages people from entering new ventures and I feel strongly that people ought to be able to pursue new economic endeavors. It is essential to economic growth.

One of the code words in our tax laws that really turns me off is "unearned income." Some persons treat unearned income as something dirty.

If you have a savings and loan account and get interest from that savings and loan account, that is labeled "unearned income." We have that with a widow who has her savings in an account, for example. We have a situation today where a person on earned income has a 50-percent maximum tax. That is fine.

I have heard of a case where an entertainer made $12 million last year and paid the 50-percent maximum tax on earned income.

But take another situation, a venture capital enterprise, which has substantial risk and creates jobs and helps expand the economy, this investment is subject to a 70-percent maximum tax.

If we really want to do away with so-called tax shelters, we should have a maximum of 50 percent, and then people will not make some of the stupid investments we have seen so far.

I am in concurrence with the chairman when we talk about LAL and the complexities of tax laws.

I am a lawyer and have studied tax law, yet I send my tax return to accountants to fill out because of the complexities involved.

Add LAL to our existing tax law and see what a horrendous problem we will have created.

In trying to formulate a sound piece of tax legislation, I think the Finance Committee has done it with the minimum tax. What we have done is increased the minimum tax.

We ought to have in this country a situation where someone can bootstrap his way up.

That means, with borrowed money. The young fellow who is getting out of school, who wants to start out, has to borrow the money to go into a new venture.

If he wants to hold a job in one area and then go into something else to supplement it, he ought to be able to do it and not be locked into one enterprise the rest of his life. That would be discouraged by LAL.

I strongly disagree with that. We have heard witnesses from across this country, from every walk of life, from the whole spectrum of political philosophy.

What we have seen is the composite of that judgment out of the Finance Committee.

We have had to compromise a lot of divergent interests. I think the consensus has been a good one and it is one that helps the most people.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Texas, a person very knowledgeable in the way business works, for making the important contribution he has.

I would ask him: He spoke about these cliches that strike right in the face of the fact. He mentioned unearned income as an example of one of those. Is it not a fact that a person who has put money into a savings account or invested it in stocks or whatever has already paid taxes on that money, just as the chairman said?

Mr. BENTSEN. Of course he has. Let us get into another matter. That is the normal accounting practices, to which reference was made a while ago.

The Senator from Colorado made reference to what a normal accounting practice is on interest and taxes during a period of construction. I have been down that road. I have seen situations where we were going to base the rent on what the final cost of the project is and then found ourselves virtually in a lawsuit as to whether or not we should have capitalized the interest and capitalized the taxes.

The conflicting point of view was that the normal accounting practice was to take the deductions during construction and not capitalize.

We will find cases split all over the lot on that point.

If we want to find out what is normally done during construction, I think we will find overwhelmingly that they take the charge-offs during the period of construction. That is money out of pocket, as was stated by the chairman. That is money that is gone.

Other types of business are allowed to take that deduction on interest. Why should they not be able to do it on real estate?

Mr. HASKELL. Will the Senator yield for a comment?

Mr. BENTSEN. I do not have the floor.

Mr. HANSEN. I yield to my friend from Colorado.

Mr. HASKELL. I thank the Senator.

There is nothing in this LAL provision that prevents a person from going into a different type of investment. All we are saying is that in the real estate business, a person can go into projects and, because of the structure of the tax laws, they will be free of tax for a great many years.

What we are saying is if he is a dentist he cannot also make his dental income tax-free by using the excess real estate writeoffs against his dentist income.

That is as clear as I can possibly make the purpose of the LAL's.

I thank the Senator.

Mr. BENTSEN. We get to that fellow with our minimum tax. What have we done on it? We have raised the tax to 15 percent, a substantial increase.

I agree with the Senator from Colorado that we should not have a situation where we have a few people who take an accumulation of so-called tax incentives and use them to an excessive degree. I do not care how one tries to explain it. When there is a fellow who has a cash flow of $200,000 or $1 million and he ends up paying no taxes, there is no way it can be justified.

The integrity of the tax system and public confidence in the system is destroyed with these kinds of examples.

The Finance Committee has tried to remedy this with the minimum tax.

In many instances high income taxpayers were not paying substantial taxes simply because they were paying a great deal of interest on the debt they owed. Their interest was not put above the line where it ought to be, where it would have been deducted from investment income.

The unfortunate part about it is the complexities involved and it is very difficult to get that understanding across.

It is also my understanding that in the future that will be reported, or the interest expense directly attributable to investment income will be taken from that for the reporting of the income. I ask the chairman if that is correct.

Mr. LONG. Yes.

Mr. MORGAN assumed the chair at this point.

Mr. HANSEN. Mr. President, I yield to my distinguished colleague, the chairman, and I yield the floor.

Mr. LONG. I am getting ready to say something, and I hope our distinguished friends in the press will come to understand it. When they do understand it, I hope they will report it. We have to rely upon the able people of the press to explain to the public what these things are all about. At the moment, I do not think they understand it, though I think in time they will.

Many times somebody has to explain something to me more times than once for me to understand it. I am going to explain it and then I will have to explain it again, I suppose, but eventually I think the word will get through.

This statement about these 220 people who paid no income tax is very, very much misunderstood. We do not need more misunderstanding. We need information, not misinformation. Let me explain it.

A few years ago when Mr. Cohen was Assistant Secretary of the Treasury, he did a study of people who had an adjusted gross income exceeding $200,000 and paid no income tax. I believe we are going to find about the same problem exists now because the law has not been substantially changed for that type of person.

Here is what he found: That was not $200,000 of net income; that was $200,000 of adjusted gross income, which is a term used by the tax law that fails to include a number of items. For example, it does not include a deduction for investment interest. It does not include casualty losses. It does not include charitable contributions or other contributions that are deductible for tax purposes. It does not include the State or local income tax, or the property tax.

I think any businessman understands the difference between gross income and net income. Gross income is what is made before expenses are paid. Net income is what remains after paying expenses.

Sometimes there is a lot of gross income while the business is not making money at all. There is no net income.

At that time there were a lot of these people who had $200,000 or more of adjusted gross income who had no net income.

For example, 55 percent of them, more than half of them, had an interest expense of an investment nature that exceeded their gross adjusted income. The interest expense alone meant those people had no net income. They had no net taxable income. They just did not owe us any tax because, after expenses recognized by law, they did not make any money.

Fifty-five percent of that group were included there.

Then there is another group of about 15 percent who had paid a tax to the State government which exceeded $200,000. That is sort of hard to believe on the face of it, how someone making $200,000 could owe $200,000 in taxes to the State government.

After all, we are talking about 220 taxpayers out of a nation of 230 million people. So we are talking about 1 person out of a million. We are talking about the unusual, exceptional types of situations.

These are the odd quirk cases that, just to state a figure, would mislead or confuse.

In that very limited number of cases, which is about 15 percent of the sample, those people had either sold their business, sold their farm or sold their life's assets, you might say, in the previous year, and they had paid a big capital gains tax to the Federal Government. But they did not pay their income tax to the State government until the following year.

For example, if I sold everything I own in life, I would have a capital gains tax to pay, but I would not pay that to the State of Louisiana this year, I would pay it next year, in 1977, and then when I filed my income tax at the end of 1977 I would have a big deduction for the income tax I had paid the State of Louisiana. It could well be that that big deduction would exceed what my adjusted gross income would be for the year 1977.

That, then, accounts for the next big deduction. Another big deduction would be people who had paid a lot of taxes to a foreign government. In that case, you are entitled to a tax credit against what you paid the foreign government. Then there would be people who made big charitable contributions, or gave a lot of money to State universities or something of that sort; and you take that, together with the interest expense, the medical expenses, and all the other expenses they had, and they might wind up with zero taxes.

So by the time the Treasury got through going over the sample of 100, as I recall it, they did not find a single case they felt would indicate that we ought to change the tax law with regard to those taxpayers.

It might be that these 220 cases that people are talking about might not present a single case where the taxpayer owes anything. People ought to keep that sort of thing in mind, Mr. President, and think through this business. The fact that 220 people with adjusted gross incomes of over $200,000 paid no taxes, that might not prove anything at all. There might not be one single person in that group of 220 whose real income was above $200,000.

For lack of anything better to go by, you might get some indication of what we are dealing with by the fact that we wrote a Tax Reform Act that we thought was very good, and yet a Treasury study indicated that of those Americans making $5 million a year or more in adjusted gross income—I wish to make it clear, we are not talking about net income—23 percent of them paid no Federal income tax, and the reason that most of them paid no Federal income tax was that most of them made big charitable contributions, all of which they were entitled to deduct.

We have limited the charitable contributions deduction since that time, and that is one reason that this Treasury study does not indicate a single taxpayer who made $5 million and paid no Federal income tax. Not any. I know of no case at all of that type.

We have taken care of most of the examples with what we have passed already. But more ought to be done. We have directed about $1.3 billion of tax increases in this bill at those taxpayers who have been able to get by paying a very small amount of taxes, who we think ought to pay more. We have a total of about $2.5 billion of additional taxes, and those taxes are derived in such a fashion that they are going to be hitting the people that we think get the best of it.

But we will do the job best if we carefully pinpoint what it is we want to achieve, and not injure too many innocent victims. Otherwise, it would be just as though one went out and went into a barroom to stop the man in the black hat from doing something that was wrong, and finally, after he got through with the shootout, there are all sorts of bodies lying around the place, and, yes, he got the man in the black all right, but he has also shot 20 with white hats on.

We do not want to do it that way. We want to be more specific; and I shall prove later on, as we go along with this debate, that the Finance Committee was far more stringent in drafting those provisions where it gets at those not paying enough taxes, and not doing the blunderbuss sort of thing of hitting innocent victims—not nearly as bad as the House bill or some of these other provisions that people are seeking to offer.

Mr. BENTSEN. Mr. President, I believe that the American people are not nearly so fed up with the amount of taxes they pay as they are fed up with overregulation by the Federal Government, overcomplexity of the laws, and Government gobbledegook that people just cannot understand.

The LAL provisions that would be added to this bill, if the House provisions were to prevail, are exceedingly complex. It well might be called the Lawyers Retirement Act of 1976. You would think that lawyers would be for this kind of complexity, because it might add to the taxpayers' burden and give lawyers some more business; but let me read what the section on taxation of the American Bar Association has stated. They carefully reviewed the House LAL proposals, and strongly urged the Senate Finance Committee to reject this approach, due to the enormous complexity of LAL. The section of taxation of the American Bar Association made the following comments about the House-passed LAL proposals:

The LAL proposal which is contained in Title I of H.R. 10612 is enormously complex. Title I consists of thirty-four pages and establishes complex accounting rules for deductions attributable to various categories of LAL property, namely, LAL Real Property, LAL Lease Property, LAL Farm Property, LAL Film Property, LAL Oil and and Gas Property, and LAL Sports Franchise Property. The rules applicable to each category of LAL property are intricate and are significantly different as between particular categories. Also, in most cases the categories of LAL property are further subdivided into classes which adds additional confusion.

Intricate accounting record keeping and complex preparation of income tax returns are an inevitable result of the LAL proposal. This additional complexity also makes tax planning more difficult. In many instances under existing law, a computer analysis is essential for planning purposes in order to assess the interactive effect of various provisions. LAL will significantly add to this complexity.

I might also add that I understand that it was the Secretary of the Treasury who was talking about going to a very simplified tax approach, and maybe going down to a 30-percent or 20-percent tax rate, something like that, and yet the House came up with this kind of approach, which I think goes absolutely in the opposite direction.

The section of taxation of the American Bar Association concluded as follows:

Because of (1) the enormous complexity which LAL adds to an already complex Code, (2) the disparate treatment of different categories of LAL property, and because (3) the reach of LAL and the minimum tax arbitrarily covers only certain so-called tax shelters, we are of the view that the LAL approach should not be adopted.

In place of that complicated, counterproductive, controversial, and certainly new groundbreaking approach, the Senate Finance Committee increased the minimum tax. In addition, with respect to agriculture, the Finance Committee decided to limit the deduction with respect to farm losses to the amount of capital at risk. This would exclude nonrecourse loan financing, as well as amounts which are protected against loss by guarantees, insurance or otherwise. Also approved was a provision to preclude current deductions by farm syndicates for the prepayment of feed, seed, fertilizer or similar farm supplies and amounts spent for the planting, cultivating, maintenance, or development of any grove, orchard or vineyard involving the raising of nuts or fruit. Instead, such expenditures would be capitalized and deducted as used or consumed; in the case of groves, orchards, and vineyards, expenditures would be deducted over the productive life of the trees.

In the case of equipment leasing, the committee decided to limit the deduction for depreciation to the amount which the taxpayer-lessor has "at risk"—plus any amounts of debt from the transaction for which the investor may be personally liable.

In the case of the sale or exchange of a sports franchise the amount of the sales price allocated to player contracts by the purchaser could not exceed the amount of the sales price allocated to these contracts by the seller. In addition a recapture rule was approved under which the amount subject to recapture would be the greater of first, the amount of depreciation taken on player contracts which were initially acquired with the original acquisition of the franchise by the seller or second the amount of depreciation taken on player contracts that are still owned by the seller at the time of sale.

With respect to oil and gas, the Senate Finance Committee decided that the deduction for intangible drilling and development costs should be limited to the amount which the taxpayer has at risk with respect to any oil or gas property. A taxpayer would be considered to be at risk with respect to any borrowed funds used to finance intangible costs to the extent that the taxpayer is personally liable for repayment of the loan or has pledged property of established value as security for the loan.

In addition, the Senate Finance Committee agreed to a series of provisions to limit movie tax shelters. In the case of the production of motion pictures, books, records, and similar property by a service company which does not own the film, the committee decided to require the service company to capitalize its costs of production. This would preclude expensing of costs which would normally be capitalized. In the case of purchases of completed films, the committee decided to limit the deduction for depreciation and losses to the amount which the taxpayer purchasing the film has "at risk". This would preclude the deduction of amounts financed through nonrecourse loans. In the case of the production of motion pictures, an "at risk" rule would also apply unless the following conditions are met:

First. The investor's equity must be at least 25 percent of the film's total cost. Thus not more than 75 percent may be a nonrecourse loan.

Second. The unpaid balance of any nonrecourse loan, at the end of 5 years after the first showing of the film, would be required to be taken into income—recaptured—at that time.

Third. A substantial portion of the film cost—80 percent—is spent in the United States.

Mr. President, I now would like to explain the excessive accounting burdens that would be imposed on farmers and ranchers under LAL. LAL places a limitation on the deduction of so-called artificial losses which are incurred in agricultural operations. As applied to the agriculture and livestock industries, LAL would cause hardships to legitimate agriculture and livestock businesses. Furthermore, LAL would add undue complexity to the law which would make both compliance and administration difficult. It would also be costly and is not needed in order to curb the so-called abuses.

The accounting burdens alone imposed by LAL would be monumental and would cost those legitimately engaged in farming and ranching the additional expense of hiring accountants to maintain sufficient books and records to comply with the provisions of LAL.

Contrary to the representations of the sponsors of LAL that the $20,000 nonfarm income exemption will protect legitimate farmers and ranchers, its enactment will adversely affect substantial numbers of them. In the first place, the report of the Committee on Ways and Means recognizes that many farmers and ranchers do receive nonfarm income. In cases where this nonfarm income comes or can come anywhere near $20,000, the complicated recordkeeping previously referred to must be maintained, because there is always the possibility that the nonfarm figure could exceed $20,000 and LAL would apply. Thus, the farmer or rancher with any substantial nonfarm income just cannot wait around until April 15 to find out whether or not LAL applies for the preceding year. He will have to maintain or try to maintain all the records necessary to comply wtih LAL just in case he has a farm loss in a year when his nonfarm income happened to exceed $20,000. And anyone who says that legitimate farmers and ranchers don't have frequent farm losses is not living in the real world.

Mr. President, I would like to also turn to the adverse impact LAL would have on our efforts to achieve energy self-sufficiency.

In 1970, the United States was only 23 percent dependent on foreign sources of oil. Today our reliance has doubled. Imports of crude oil and petroleum products currently account for over 40 percent of the total petroleum consumed in the United States and it is estimated that our dependence may increase to close to 60 percent by 1980. Between 1970 and the present, domestic production of petroleum liquids declined by over 1 million barrels a day. The LAL provi-

sions relating to oil and gas will only aggravate this situation.

The LAL provisions in the House bill would restrict intangible drilling deductions for so-called developmental wells to income from the particular property in which the investment was made. The LAL provisions on oil and gas would severely reduce investment in domestic oil and gas development at a time when greater investment is desperately needed. It is estimated that this provision could dry up hundreds of millions of dollars of venture capital from outside investors which otherwise would go into domestic oil and gas exploration.

Although the LAL proposal limits intangible drilling deductions for developmental wells, no new limits would be placed on investments in so-called exploratory wells. However, in practical terms there can be no neat and simple distinction between an "exploratory" and a "developmental" well. This distinction would prove to be administratively unworkable and would place the Internal Revenue Service in the business of making sophisticated geological determinations for every oil and gas well. Taxpayers would be subject to endless time delays awaiting an IRS ruling as to the classification of a particular well.

Needless to say this uncertainty would substantially discourage domestic oil and gas investments. Our tax laws are complicated enough as is without the addition of this clearly unworkable concept. In fact, a recent study indicates that 92 percent of all exploratory wells drilled in Texas in 1974 were within 2 miles of the nearest field and thus might be deemed to be "developmental" wells under the House bill.

The LAL provisions will impose a disproportionate burden on independent oil and gas producers who rely heavily on outside sources of capital to raise the funds needed for exploration and development.

One cannot underestimate the extreme risk that independent producers face in exploratory drilling. Only about one wildcat well in nine produces anything. In addition to the risk involved, the costs of drilling have spiraled in recent years.

Oil and gas producers have the experience and the will to expand exploratory drilling and also develop methods of enhanced recovery. It would be very shortsighted indeed to enact legislation which would impose severe restrictions on this important sector of our economy.

Mr. President, I strongly believe that all high income Americans should pay their fair share of taxes. The effectiveness of our system of tax collection, based upon voluntary self-compliance, has been very successful in raising Federal revenues. Indeed, our success is the envy of all other nations around the world. In many nations, the failure to pay taxes seems to be the rule rather than the exception. We cannot maintain public confidence in our tax system unless Americans are convinced our tax laws are fair.

At the same time, our tax laws must include reasonable investment incentives to stimulate the economy and to promote economic growth.

The Senate Finance Committee held months of hearings and markup on tax reform and the bill reported to the Senate floor will help achieve a balance between the need to insure greater fairness and equity in our tax law while at the same time provide reasonable investment incentives.

The Finance Committee decided to reject the House passed LAL provision which is a clearly unworkable and counterproductive proposal. Instead, the Finance Committee decided to substantially strengthen the existing minimum tax provision and enact a series of major changes to eliminate tax shelter abuses with respect to real estate, agriculture, motion pictures, sports, equipment leasing and oil and gas production.

Again and again I say, what we are trying to do is stop the abuses, the accumulated abuses, the excessive use of tax incentives to try to develop a cash flow of $200,000, $300,000, or $400,000 without paying any tax at all. I totally sympathize with those who want to put an end to that. And we ought to put an end to it. You can never explain to the fellow who has a service station making $20,000 a year why this fellow over here with a $400,000 cash flow pays no tax.

We can stop that. And the Finance Committee minimum tax goes a long way in trying to bring that about without unduly complicating the law.

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

Mr. BENTSEN. I am happy to yield.

Mr. PACKWOOD. Is it not true that in terms of reaching income to tax and wanting to tax income that we can do anything that we wish with a minimum tax? We can make sure that not a single person in this country avoids or evades paying a tax if we choose to do so.

Mr. BENTSEN. That is correct.

Mr. PACKWOOD. We do not have to use the LAL provisions to achieve that end.

Mr. BENTSEN. I sympathize with the objective of seeing that they all pay their fair share.

Mr. PACKWOOD. That is right. But we can achieve that end without the rigidity of the LAL provisions. As a matter of fact, in the provisions that are being offered by those who want us to put in the LAL provisions rather than what we have, we have left in the exemption for residential real property of any kind, and that would include the biggest condominium in the world. We have retained the exemption for those who are in the business so they can use whatever tax deductions that are there to shelter all the income and, thus, pay no taxes. By the very proposal the so-called reformers are proposing, we have not reached the problem they say they wish to reach. If they want to reach it, they are either going to have to change their proposal so that there is no way one can use any of these, and I am using their words, "artificial deductions"; there is no way one can use them, or they are going to have to adopt some kind of minimum tax, in addition to what they have, that they have not yet proposed to reach those people.

Mr. BENTSEN. That is absolutely correct. LAL by itself does not take care of the problem for the one who has excessively used the so-called tax incentive to try and escape any tax.

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

Mr. BENTSEN. I am happy to yield.

Mr. LONG. Before we conclude this debate on LAL, I shall ask the sponsors of this proposal specific questions related to specific problems and ascertain if they can answer them, and, for that matter, determine if they can agree on them because, in my judgment and in the judgment of our staff, there is no way that we can resolve all of this. There is no way that we can administer it. But we will give them a chance to demonstrate it because it applies to specific cases. I simply wish to determine how they would do it.

For example, let us assume, first, that a farmer raises vegetables, apples, wheat, and livestock. Assume, also, that LAL applies. This is a fact. LAL would apply to vegetables and apples, but not to wheat and livestock.

Suppose a farmer has three hired hands. Part of the time these employees are planting or weeding the vegetable garden, spraying and pruning the apple orchard that is being developed.

LAL says a farmer must keep a record of these expenses since if he has more than $20,000 of nonfarm income he must delay taking these deductions until he has revenue from these activities. However, the hired hands are also used to plow the fields for wheat and take care of the livestock. These activities are not subject to the LAL.

How is the farmer to allocate the wages paid the farmhands between the work in the apple orchard, the work in the vegetable garden, care of the livestock, and work in the wheat field? Are the hired hands' wages to be allocated between these activities on the basis of time spent in each? Does this mean the hired hand must punch a timeclock or keep a time record of which activity he is working in day by day and how many minutes he spends on each one?

Mr. BENTSEN. Mr. President, let me ask another question, and I wish to ask this of the chairman.

Let us take a situation of a pecan orchard. Let us take a pecan orchard that probably costs $300 or $400 an acre per year simply to maintain and grow it. That pecan orchard has to get up to about 7 years of age before the farmer can break even and the pecan orchard can carry its own weight.

If a person decides he wants to go into the pecan-raising business, how is he going to do that, if he is not going to have supplemental income from another source to do it? He is going to have a very serious problem, it seems to me, breaking into that business, particularly over an extended period of time.

Mr. LONG. Yes. Furthermore, he could not deduct any of those expenses until after the pecan orchard started making money. Look at the situation he would be in. Hopefully, he would have some income from somewhere else to keep him going, to hold hide and hair together long enough until the pecan

tree would grow up and start yielding a crop for him, which would be several years later, but meanwhile he could not deduct the expenses of what he was paying to take care of that pecan orchard or to cut the weeds and fertilize it and do all the things that had to be done. He would have to keep capitalizing all of that and could not deduct a nickel of it.

As a practical matter what it means is unless he is a pretty solid fellow as far as net worth is concerned, unless he has very substantial wealth, he better forget about going in the pecan orchard business because he would not be able to so do.

Mr. BENTSEN. That would give a monopoly to the people in the pecan business now. Is that not what it means?

Mr. LONG. What that means is he could not deduct his expenses from the wages that he is making. If he is working down at the plant and has some income coming in from that source, or he is a lawyer, a doctor, or just anyone, a Congressman or a Senator, or a newspaper reporter, he could not deduct his expenses year by year to do all the things that have to be done to take care of the pecan orchard, to get it in shape to where it makes revenue for him. He has to keep capitalizing that and cannot deduct the expenses.

Mr. BENTSEN. I know that is true.

Mr. LONG. That is true even though he has paid all his money out. What is artificial about that? He has paid the money. They would say this is artificial, this is an artificial deduction. He is out his money. His money is gone. Yet they say it is artificial. I would like to see them get the money back for him.

That is a problem with someone who tries to raise a pecan orchard, and so it goes in other lines of endeavor. It is absolutely an impossible situation.

Mr. BENTSEN. I was in the citrus-growing business in south Texas, and there was nothing artificial about my expenses. It was very painful every time I wrote out that check, whether it was for water, fertilizer, labor, pruning, cultivating, or whatever I had.

Mr. LONG. Let us look at the other ridiculous point about this.

Secretary Simon was a former energy administrator. He understands the problem of people in the oil and gas business. So he sent us a letter in which he said:

Look, the LAL was fine, but do not apply this to the oil and gas business. I understand their problem. You should not apply LAL to them.

All right. There are friends on the committee who would not vote for the House bill. They would like to apply the LAL, but leave out the residential homebuilders. They say:

Look, these homebuilders are decent folks. Do not apply it to the householders, the guys building little houses. Do not apply it to them. I know some of those people. They are nice guys. I have sympathy for people in that business. They are honorable. Most of them are very fine people. Let us not apply it to them. That would give them a real problem.

After we study this thing, we will say exactly what the committee said about the farmers after we have heard from them.

Look, we just did not apply this to farmers. Those farmers are not bad people. They are decent guys. They work hard for what they make. Do not apply it to them.

After a while we get down to the point where we would not want to apply this to anyone for whom we have a sympathetic respect.

The only group we wish to apply it to is the group of bad guys. Let us find some bad fellow, someone we do not like, to apply it to him.

That is about how the LAL has to apply.

Why does the Senator not simply write is his amendment that this only applies to people who wear black hats? We do not like this guy, so put that on him because anyone for whom I have the slightest regard or respect I would not want him to have to live with that.

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

Mr. LONG. I yield.

Mr. HATHAWAY. We would be glad to write it in if we thought the Treasury would interpret it the way we want it interpreted, and that would save a lot of trouble.

Mr. LONG. That has always been the case.

Mr. HATHAWAY. It would save us a lot of trouble.

If the Senator will yield further, he had problems he wanted to bring up with regard to the interpretation of the provisions. I hope he will submit them to us so we will have enough time to go over them, at least equal to the time it took the staff to dream up these problems, so that we could give them an adequate answer.

While in the Chamber, let me say something in regard to artificial losses. I think the Senator makes an excellent point. He says they have to take the cash out of their pockets and pay for those expenses. There is no question about that. I think probably the House of Representatives used a bad term or a term that would not really convey their meaning when they refer to these losses as artificial.

What they are talking about is the artificial acceleration of these losses so that they do not match with income. If you were in a business and you were to buy a piece of equipment that would last 5 years and you could deduct the entire cost of the equipment, maybe you could pay out all the cash for the equipment in the first year. That is the kind of artificial loss we are talking about—if you could take the loss the first year, instead of spreading it over 5 years. Probably "artificial acceleration" would be a better term.

The real evil in these tax shelters is not the fact that we have given a tax break in terms of giving these artificially accelerated losses to farmers and the others that are talked about in title I of the bill. Congress decided that these certain businesses should have this type of deduction, even though it does not match up with income. We allow accelerated appreciation. We allow a lot of deductions or expenses that should be deducted over a period of time or capitalized. We allow them to take them in the first year.

What we are objecting to in trying to eliminate these shelters is that these tax preferences were not designed for people not in that business, but people not in that business are taking advantage of the preferences we have given just to certain businesses. I am not sure we were wise in giving them to these businesses in the first place.

If we wanted to join in eliminating these preferences altogether, which in turn would eliminate the shelters, because these businesses would no longer be attractive, then I would be happy to cosponsor an amendment with the chairman to that effect. But I do not think we would get much support for that.

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

Mr. HATHAWAY. The argument has been made that they are artificial with respect to the person not in that business, but they both have to pay out cash. The fact is that they are artificially accelerated, so that they end up as deductions which another person who is not in that business can use to offset or shelter his outside income. That was not the intent of the law when we gave them these tax breaks in the first place.

Mr. LONG. Mr. President, if we apply the Senator's logic to that, if the Senator had his way and someone wanted to go into the pecan orchard business, if he is earning a living and he is taking what he is earning year by year and applying the earnings to go into the pecan business, he would not be permitted to pay for any expense of clearing the field, fertilizing the field, cutting down the grass, planting the trees, pruning the trees, spraying the trees to fight the insects. None of that could be deducted. He is out the money, and he cannot deduct it against the income he is paying for all these expenses. That is what the Senator would call an artificial deduction. The Senator said he would prefer that a person not be allowed to deduct any of that, even though he is out the money.

Mr. HATHAWAY. I did not say not deducted.

Mr. LONG. What I object to is this: The guy who is in the pecan business and has a producing orchard can get the benefit of those deductions, but as for anyone else who wants to go into the pecan business—woe unto you. This proposal is drawn for the people presently in the pecan business, and anyone else cannot deduct it. You have to have a pecan orchard showing a profit before you can get the benefit.

In my judgment, that is worse than it was the first time, because that is discrimination against some honest soul who would like to go into the pecan orchard business.

As I say, the Senator would force us to choose between two wrong things. In other words, it is an out-of-pocket expense. It is an expense that is being paid. If you are not going to let people deduct the expense, they cannot go into the business. Perhaps the Senator does not want folks to go into the pecan business or into any other orchard business. If that is so, he has a provision calculated to bring that about.

I think that anybody in this country who wants to go into the pecan business

has a right to do so and to get the same tax treatment as the guy already in the pecan business—or the person growing citrus trees, or anything else. He should have the same tax treatment.

The Senator wanted us to give him some examples. So far as I am concerned, he can take his experts and work on it all night long and bring in all the tax laws he wants.

Mr. KENNEDY. Mr. President, will the Senator yield for a question to the Senator from Maine on this issue?

Mr. LONG. I yield.

Mr. KENNEDY. As I understand it, it was at the request of the industry itself, the citrus industry and the almond industry, in 1969, that there be a capitalization of costs in those industries, in order to prevent the perversion and distortion of tax shelters in those industies, to prevent outside interests from coming in and being a serious disruptive factor in those particular industries.

Mr. HATHAWAY. The Senator is correct.

Mr. KENNEDY. Furthermore, do I correctly understand, that under the present situation, where you have a business purchasing a new business, for example, and employees are working on the purchase of a new business, then you have to allocate the time, the salaries, and the costs against that new business?

Mr. HATHAWAY. That is correct.

Mr. KENNEDY. So that the allocation of salaries or costs is the way of doing business at the present time. Allocating particular salaries or other costs in any of these areas is not a new idea or something radical. Under the amendment of the Senator from Maine, we would expect the same kind of allocation of expenses and costs in the same way.

Furthermore, I understand that one of the reasons for support for this amendment is to prevent the serious disruptions which these various tax shelters have with respect to a variety of industries which are dependent upon the smaller investor and which, because of the LAL provisions, have distorted in a most significant way the market forces.

Mr. HATHAWAY. Because of shelters. The Senator is correct.

Mr. LONG. What the Senator said that industry asked for is correct, but that is not what the bill does.

It is true that the people in the citrus industry are concerned about more people coming into their business, and they wanted the law fixed so that you would capitalize your expenses when you go into the citrus industry. But everybody has to capitalize—the fellow who is in it as well as the fellow who wants to go in it.

The provision that the Senator is defending here is a provision whereby the fellow who is in the industry gets the benefit and the fellow who is not in it does not get the benefit. The fellow who is in the industry gets the benefit of the deduction, and the fellow who wants to go into that business does not get the benefit of the deduction. That is discrimination; that is unfair. The industry never asked for anything like that, because they would be the first to recognize that it is not fair.

Mr. KENNEDY. That is not my understanding, the way the Senator has stated it. There is not that distinction in LAL at the present time.

Mr. PACKWOOD. What does the Senator mean, there is not that distinction?

Mr. KENNEDY. The distinction and discrimination the Senator from Louisiana mentioned between those in the industry and those outside it.

Mr. PACKWOOD. In the amendment that the Senator is presenting now, there is that discrimination in every phase of it, with one exception I do not understand, and that is residential real property.

Mr. LONG. As I understand the LAL provision, we could use income from farming to offset the deduction of going into some other farming activity, but we cannot use income from any other area. We cannot use income from wages in some other endeavor or income from any other business that we might have coming to us to offset expenses when we go into the farming business, and that is not fair.

Mr. PACKWOOD. Who has the floor, Mr. President?

Mr. LONG. I believe that I should complete this list of suggestions, to see just how the sponsors would handle it. Let us assume that a farmer has a tractor which he has used first in an activity subject to LAL, then in one which is not. Unless a time record is kept, how is depreciation on the tractor to be allocated between the apple orchard development cost and the vegetable garden and the wheat crop?

If the farmhands repair a fence which keeps the cattle out of the vegetable garden, is the cost of the materials and the time of the farmhands to be allocated to vegetables, which are subject to LAL, or to the cattle, which is not subject to the LAL?

If the expenses I have referred to above are not to be allocated on a time basis, how should they be allocated? One way would be to do it on the basis of the profit from each. But if the activities in a given area are not profitable, how would that be handled?

Another way is to allocate the overhead expenses on the basis of direct costs. Sometimes this is reasonable. However, at other times one activity has large direct costs but involves little supervisory cost. In this case such an allocation does not make sense. How would we handle that?

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside temporarily.

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

DISTRICT OF COLUMBIA APPROPRIATIONS, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 896, H.R. 13965, be called up at this time. This has been cleared on both sides.

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

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 13965) 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, 1976, and the period ending September 30, 1976 and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the committee on appropriations with amendments.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered en bloc.

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

The amendments agreed to en bloc are as follows:

On page 2, in line 3, strike out "$250,000,000" and insert "$249,676,700".

On page 2, in line 12, strike out "$66,500,000" and insert "$65,876,000".

On page 2, in line 25, strike out "$210,000,000" and insert "$209,000,000".

On page 3, in line 17, strike out "$116,861,000" and insert "$116,314,400".

On page 4, in line 20, strike out "$83,400" and insert "$42,100".

On page 4, in line 23, strike out "$13,000" and insert "$15,300".

On page 5, in line 4, strike out "$30,024,900" and insert "$30,098,300".

On page 7, in line 4, strike out "$65,436,100" and insert "$64,499,500".

On page 7, in line 11, strike out "$237,382,300" and insert "$237,325,900".

On page 7, in line 23, strike out "$47,476,500" and insert "$47,465,200".

On page 8, in line 18, strike out "$264,124,200" and insert "$264,074,500".

On page 9, in line 16, strike out "$74,830,900" and insert "$74,871,000 including $333,500 for the improvement of care and treatment of the mentally retarded at Forest Haven,".

On page 10, in line 13, strike out "two" and insert "one".

On page 10, in line 14, strike out "vehicles" and insert "vehicle".

On page 10, in line 14, strike out "and the Chairman of the Council of the District of Columbia,".

On page 10, in line 17, strike out "$26,942,600" and insert "$27,899,400".

On page 10, in line 23, strike out "two" and insert "one".

On page 10, in line 24, strike out "vehicles" and insert "vehicle".

On page 10, in line 25, strike out "and the Chairman of the Council of the District of Columbia".

On page 11, in line 1, strike out "$6,922,400" and insert "$7,167,400".

On page 11, in line 6, strike out "$63,619,700" and insert "$63,492,300".

On page 11, in line 16, strike out "$16,345,800" and insert "$16,311,200".

On page 13, in line 11, strike out "$1,000,000" and insert "$500,000".

On page 13, in line 13, strike out "expended" and insert "September 30, 1977".

On page 14, in line 3, strike out "$135,259,500" and insert "$112,593,700".

On page 14, in line 4, strike out "$3,456,700" and insert "$3,445,700".

On page 14, beginning in line 24, after "lapse" insert a colon and the following: "*Provided further*, That funds in the amount of $5,512,800 shall be redirected from the Burrville Elementary School Replacement to the construction funding for the Roosevelt Senior High School Modernization".

On page 16, after line 16, strike out through the end of line 19.

On page 16, beginning in line 20, strike out "Sec. 7" and insert "Sec. 6" and renumber subsequent sections of the bill.

On page 17, in line 20, strike out "Chair-

man of the Council of the District of Columbia,".

On page 17, in line 25, strike out "Chairman of the Council of the District of Columbia,".

On page 18, in line 9, after the period, strike out down through line 17.

Mr. CHILES. Mr. President, I am pleased to finally have the opportunity to bring to the Senate the District of Columbia Appropriations Act for 1976.

I began my tenure as chairman of this subcommittee at the beginning of the 94th Congress. Over the intervening months I almost lost hope of having a bill before the Senate before the fiscal year was over. This is the first home rule budget and the budget process has been greatly delayed by the growing pains in the city. We have encountered a similar problem in connection with fiscal 1977, but as we indicate in the report we have an agreement with the Mayor that the full 1978 budget will be submitted by mid-February of next year.

I should note that the original budget for 1976 did not reach the Congress until last November 5, or more than 4 months after the fiscal year began. I started hearings in December only to find that the financial inadequacies highlighted by Senator EAGLETON in the District of Columbia Committee were all unfortunately true. We had to suspend our consideration while the city went back to the drawing board and amended the budget, another process that took until the 6th of May.

During all this time, the District has been operating on a continuing resolution so that what we are mainly doing here today is paying the bills obligated already and providing what it takes to finish out fiscal year 1976. As can be noted on the summary on front of the report, the amended District of Columbia budget totals $1,203,480,300 of which $1,046,830,700 is for operating expenses and the remaining $156,217,600 is for capital improvements. This is the first $1 billion operating budget in the history of the District of Columbia. The committee is recommending $1,155,464,400, a reduction of $47,583,900.

The Federal funds are probably the primary interest of the Senate and the budget estimate totalled $507,841,000, which we reduced $43,476,300 to the level of $464,363,700. The Federal funds are, of course, what we based our subcommittee target on March 15, 1975, that was made part of the budget resolution. Inasmuch as we used the budget levels as our target, we are $47,583,900 under the level submitted for the budget resolution.

The subcommittee analyzed these requests in great detail and as I indicated earlier, there is little by way of increase left in this budget. In fact, the increases for operating expenses over the adjusted base amount to $167.7 million of which $141.4 million are for mandatory costs such as the Metrobus subsidy, annualization of the October 1974 pay raise, the costs of the pay raise of last October and the additional amounts required for the repayment of loans and interest. There is barely $25 million additional in this budget for discretionary increases, and of that amount, some $19.6 million is to cover additional workloads.

METRO

With regard to Metro I want to note that the largest increase in this budget is the $27,336,300 for the Metrobus operating subsidy. As explained on page 25 of the report, a significant portion of this relates to adjustments for fiscal year 1973 and 1974, plus the full amount due for 1975 and 1976. Having to include the 1975 amount is in my mind another manifestation of the budget juggling that went on during that year. Metro is due this money pursuant to the agreement among the local jurisdictions and the delay in processing this bill has forced Metro to obtain loans from local banks, so the follies of 1975 have many hidden as well as visible costs.

The District's share of the 1976 Metrobus deficit is $25,496,841, which is an alarming increase of $15,581,414 over 1975. The District has decided to maintain the 40 cents fare and make up their allocation through subsidy, which of course, means the taxpayers at large pay 26 percent of the bill through the Federal payment. It is hard for me to appreciate the need for a 40-cent fare from one end of the District to the other, while the rider that merely crosses the District line from one of the suburban areas must pay a minimum of 60 cents. I questioned this decision in our hearings and was somewhat persuaded by the number of low-income District residents that use the bus system. However, there have been cost-of-living adjustments in social security, Civil Service pensions, and welfare payments and I expect the District to take that into account the next time the bus fares are established.

There is also $45,484,700 on the capital outlay section of the bill for Metro, of which $41,037,000 goes to the construction of the subway system and the remainder for the purchase of new buses and bus facilities. The District's share of the construction of the subway for fiscal 1976 is $40,149,000 out of a total program of $348 million. The District's share is 35 percent of the local contribution which corresponds roughly to the amount of the subway mileage inside the District line.

There is no doubt in my mind that the District of Columbia is in financial trouble. During 1975 some $40 million was borrowed from the U.S. Treasury to enable the city to pay its bills. During 1976 the city will be going back for an additional advance of $15 million from the Treasury to meet the obligations that will be due and payable by June 30. The city has unfunded pension obligations of $1.8 billion and has capital outlay obligations to the U.S. Treasury also in excess of $1 billion. It is undoubtedly true that a considerable amount of the District's current financial problems can be attributed to many of the shortsighted decisions in the past, many of which were concurred in or even prompted by the Congress. During my consideration of this budget, I have tried to avoid duplicating these decisions or at least not to add to the current dilemma. The financial plan for 1976 is balanced on a cash basis and there will be approximately a half million dollars left in the city's treasury on June 30, 1976. This information, as well as that pertaining to the transition quarter, is outlined in greater detail on page 14 of the report.

Our report is before the Members. It would appear that we reduced the House allowance for operating expenses by only $323,000. However, that is a net amount resulting from decreases of $1,307,000 offset by increases of $984,000. Our major increase is to lift the limitation of 2 cents per kilowatt hour that the city may pay for street lighting. This limitation is outdated due to the tremendous increases in energy costs and unless removed, these costs will have to be passed on to the other consumers.

We have allowed 744 of the 835 new positions requested of which 380 are for staffing and maintenance of new facilities opened during the fiscal year or for continuing programs previously funded by Federal grants. The subcommittee also recommends the additional 317 positions requested by the Department of Corrections of which 252 are to replace the temporary positions established with the opening of the new Detention Center earlier this year.

FOREST HAVEN

Recently there has been considerable attention in the press regarding the deplorable situation at the District's facility for the mentally retarded—Forest Haven. Let me right away express my appreciation to the local media for not letting us forget Forest Haven, which is too easy to do since by design or happenstance it is part of the District's Children's Center near Laurel, Md. Accordingly, Forest Haven is far removed from the mainstream of the District of Columbia. I also want to acknowledge the deep personal interest of the distinguished junior Senator from Minnesota. Senator HUMPHREY has written to the subcommittee on several occasions and his concern has been an inspiration to me.

The committee has always maintained a special interest in Forest Haven. During the committee's hearings it was found that the special improvement increment of $900,000 approved in the 1975 District of Columbia Appropriations Act had largely been dissipated in the maintenance of base operations so that little advance had been made in the improvement of care of the residents of Forest Haven as envisioned in the 8-year plan for this facility. Needless to say, the committee was dismayed by the action of the city in withdrawing the second year increment of the 8-year plan due to the delays encountered in implementing the first year portion.

In view of the numerous delays already cited with regard to the processing of the 1976 appropriation, there is little the committee can do at this late stage for fiscal year 1976. However, the committee is shocked by the continuing revelations of the abuse of Forest Haven residents. In order to help assure their safety, the committee decided not to wait for the fiscal year 1977 budget for action and has made special provision in the transition quarter for 20 of the 80 positions originally requested for the second year of the improvement program. The additional positions recommended by the

committee, while less than the committee believes essential, represents a responsible addition during the next 3 months and will all be directed to the direct care of the residents.

The committee has provided that $333,500 is especially made available for the Forest Haven improvement program for the transition period and directs that the city account for these funds separately. This will prevent the previous diversion of funds into the maintenance of an inadequate effort. I am directing that comprehensive monthly reports be furnished regarding the expenditure of these funds so the committee can closely monitor the improvement effort.

Mr. President, this concludes my overall statement on the bill, and I yield to the distinguished ranking minority member of the subcommittee, the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I complement the chairman of our subcommittee, Senator LAWTON CHILES, for the excellent work he has done on this bill. It should be clear that neither he nor the subcommittee nor the Congress are in any way responsible for the fact that this bill is now coming to the floor of the Senate during the last month of the fiscal year for which it appropriates funds. The situation concerning the delays in processing this bill, as well as the fiscal year 1977 District of Columbia budget, are well explained in the report accompanying the bill on pages 5 and 6.

The chairman has explained all the parts of the bill and the figures in it, and I will not seek to cover his ground again but will point up a few items of special interest.

No one is pleased with the progress at Forest Haven, and it is very clear that a very great upgrading of that facility for the retarded must be undertaken forthwith. In this bill, we have provided for what can be done between now and the end of the transition quarter, September 30, 1976. What should be done will be addressed in the fiscal year 1977 District of Columbia appropriations bill, and everyone concerned with Forest Haven should be on notice that this committee under the guidance of its chairman insists that dramatic improvements will be instituted forthwith at that institution.

This bill provides additional funding of $2 million for the transition period for the additional burden of providing public safety for our Bicentennial events and its also provides $500 million, mainly for public safety, for the period when this bill is enacted into law until September 30, 1976. These sums represent some cutback from budget requests and the House action on the bill, but it should be understood, as is clearly pointed out in the report, that this subcommittee stands ready to consider appropriating additional funds if they are needed. Only the professional judgement of our public safety officials in the District can be relied upon to determine what is adequate protection during this period when substantially greater numbers of additional visitors will be participating in the Bicentennial celebration in the District. It should be understood that while it may be true that the latest projections of the number of additional visitors to the District are somewhat reduced from former projections, about the same number of Bicentennial events such as parades, the fireworks display and other events will require a dramatic increase in extra duty and overtime for our police force, emergency medical services, and other public safety services.

The report reflects our concern with the very heavy indebtedness of the District of Columbia both in loans outstanding and in unfunded or partially unfunded pension funds. There is not a great deal this committee can do about this in this bill, but I know the chairman plans to address this issue in the fiscal year 1977 District of Columbia appropriations bill, and I will support him in this.

I am pleased to note that the committee has taken steps to include funding for continuation of pretrial third party custody programs. Nonprofit community-based organizations such as Bonabond have been serving as an important link in the criminal justice system by providing pretrial supervision for people accused of crimes in the District of Columbia.

The House Appropriations Committee action eliminating the $100,000 budget request for third-party custody programs could have very unfortunate consequences for public safety in the Nation's Capital. Without the third-party custody program, the city would be faced with the alternatives of increasing the already intolerable overcrowding in the District of Columbia jail or leaving several hundred high-risk cases free on bail without any supervision. By including the third-party custody program in the total allocation for the Department of Corrections, the committee has placed responsibility for this important part of the criminal justice system where it logically belongs.

Finally, I am pleased that the committee has approved additional transition-period funding for the nine law clerk positions which have been authorized and are currently being funded under an LEAA grant. The burden on the courts is tremendous, and they deserve our support.

Again, let me compliment Senator CHILES for the excellent and hard work he has put in on this bill, and let me compliment his staff who have worked so hard and have been so helpful to me.

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 to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 13965) as amended, was passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of the Senate amendments to H.R. 13965.

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

Mr. MANSFIELD. I move that the Senate insist upon its amendments and request a conference with the House on the disagreeing votes 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 (Mr. MORGAN) appointed Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. MCCLELLAN, Mr. EAGLETON, Mr. MATHIAS, Mr. SCHWEIKER, and Mr. YOUNG conferees on the part of the Senate.

ORDER FOR CONSIDERATION OF H.R. 8410 AT 1 P.M. TODAY

Mr. MANSFIELD. I ask unanimous consent that the Senate return to unfinished business, but that, at the hour of 1 o'clock, the pending business be laid aside and at that time, the Senate take up Calendar 886, H.R. 8410, an act to amend the Packers and Stockyards Act of 1921, and so forth.

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

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. KENNEDY. Mr. President, we have heard some examples, and I am sure we are going to hear a number more during the course of the debate and the discussion. The fact of the matter is, Mr. President, that we have allocations of various expenses at the present time in a wide variety of different financial endeavors and through the traditional and historic business accounting procedures and measures. They would continue under the amendment that is being offered by the Senator from Maine and the Senator from Colorado.

The point that we are not discussing, that we have not discussed, Mr. President, is the extraordinary distortion in this current situation—whether we are talking about pecan orchards or the various other items which are included in the various tax shelters—real estate, farms, oil and gas, equipment leasing, movies, and the rest—where, basically, we are permitting individuals with high incomes to buy into tax shelters, which are being marketed by a number of different groups in this country. They buy these deductions and expenses and write them off. In effect, they receive an interest-free loan from the Federal Government. The impact is that it is the Federal taxpayer who is underwriting this subsidy. That is a very significant distortion, to the extent that this amendment rakes $450 million in revenues in this area.

I do not think we can get away from the larger picture. We are being asked to respond to particular complex situations. It seems to me that for these various allocations of expenses, we find that such allocations are done every day within the business community. There is no reason in the world why they cannot be done and continue to be done today by any of the groups affected by this amendment.

The other side of the coin is, as the Joint Committee on Taxation has pointed out, that there are the two well-known individuals with incomes in excess of $500,000 who paid no Federal income tax—no Federal income tax. An individual with an income of $2 million paid an effective rate of 2.5 percent. An individual with an income of over $900,000 used tax shelter deductions to the extent that he almost entirely escaped paying any income tax. A corporate executive with almost $450,000 of income was taxed at a rate of 0.3 percent as a result of tax shelter deductions. And a lawyer paid no tax on $151,000 of income. A dentist paid no tax on $156,000. A stock broker, with income of $181,000, paid tax at a rate of 0.6 percent. That is the other side of the coin.

Mr. PACKWOOD. Will the Senator yield for a moment?

Mr. KENNEDY. Not just yet.

What we are seeing is how these various tax shelters are being used to perpetuate extraordinary inequities in the Internal Revenue Code—extraordinary inequities. It is not that poor farmer down in Texas who is trying to buy into a pecan orchard and being denied the ability to do so. It is going to be a lot more difficult for legitimate farmers to stay in business, with the serious economic distortions created at the present time by these tax shelters.

Rather than try to weep crocodile tears over those small business men and women or other individuals who are trying to get into this area, the fact is that unless we adopt this amendment of the Senators from Maine and Colorado, we are going to make it much more difficult; because all those dentists and lawyers in Boston, Mass., are going to own the pecan orchards in other parts of the country, because that is the way they are being marketed up our way. A number of dentists and lawyers and others in our State have no idea of how to run a pecan orchard, but they are able to buy into it and take the various deductions early, and obtain the tax benefit from the Federal Government. Make no mistake about it, the average taxpayer is underwriting these tax benefits. It is that kind of distortion that we are trying to address in terms of the amendment of the Senator from Maine. I think it is well warranted and justified.

In terms of the various housing provisions, the fact of the matter is, Mr. President, that because of the extraordinary need for housing, most of the housing legislation has been passed in this body to take into account the various tax shelter provisions. Were we to include them in LAL at this time, the failure of both the Congress and the administration to come up with an effective housing program, particularly in the low income and middle income area, would have a devastating effect on the housing industry, which I think would produce an unacceptable situation at the present time.

I think if we are able, in terms of housing, to allocate the resources which are necessary for a decent housing program, particularly in the low- and middle-income areas, then at a future time these particular tax shelters should be an area of the Senate and congressional attention.

But I think the impact would be unfortunate and regrettable were we to include housing at this particular time.

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

Mr. KENNEDY. I would like to yield to my colleague from Maine since we have not been able to have a debate.

Mr. PACKWOOD. Fine. Go ahead.

Mr. HATHAWAY. I am sorry the Senator from Louisiana did not stay because he was making a point about the poor farmers. The Senator from Georgia is still here and, perhaps, I can continue the dialog with him.

As I mentioned to the Senator from Georgia this morning, in answer to the question about whether or not outside income could be used, the farmer was considered by the House of Representatives and it did give him the $20,000 against which he could take some of the farm deduction.

I would like to try to let the Senator from Oregon see the distortion that you get in this tax shelter arrangement. Take the student loan program, for example. We have a student loan program that allows students with a certain family income and under it to get a low-interest loan.

If such a student were to sell that loan to a rich kid who, because his family was making so much money, could not get the benefit of that loan, every person in this body would say that that was a bad thing to do, it was illegal, and we intended to make these low-interest loans just for the poorest students, and the richest students should not be able to take advantage of it and should not be able to buy it from him. It should not be transferrable.

That is exactly what is happening with these tax shelter arrangements, and we are doing nothing about it because the breaks we intended to give to the farmers, to the people in the real estate business, and the people in the other four businesses we are talking about here under title I, are in many cases actually selling their tax deductions to those on the outside, and that is exactly why we are incorporating this provision to curb that practice.

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

Mr. HATHAWAY. We are not concerned about a minimum tax. The fact that 244 people in the country do not pay any tax at all does not really concern me at all. If you could eliminate the basis upon which they do not pay the tax, and one of the bases is this tax shelter arrangement—I certainly would be happy to do that.

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

Mr. HATHAWAY. I think I promised the Senator from Oregon I would yield to him first, and we are under a time limitation.

Mr. TALMADGE. Since the Senator mentioned the agricultural items specifically, and since he referred to the fact that they sell the tax deductions to others not in the business, the Senator is aware, of course, that we dealt with this question of farm syndication and covered that loophole, is he not?

Mr. HATHAWAY. The Senator is correct. I do not say all of them were, but in the real estate——

Mr. TALMADGE. The syndicate is what we were after, and that is what we closed. We were not after the individual farmer, and the reason I object to the LAL provisions here is that the LAL provisions would do a grave disservice and an injustice to the individual farmers.

I have no sympathy whatsoever for those cattle syndicators and others to whom the distinguished Senator from Massachusetts referred a moment ago—lawyers and doctors or dentists trying to get into the farming business on a syndication basis. The committee acted to close that syndication loophole, and I vigorously supported it, and I support it now.

But what I do object to on the LAL provision is the situation involving an individual farmer who makes a legitimate expense as to seed, feed, or fertilizer. Under the LAL provision, unless his income was under $20,000 a year, he could not deduct a legitimate expense.

I thank the Senator for yielding.

Mr. HATHAWAY. The farmer still has the same deductions he had previously.

Mr. TALMADGE. Under the Senator's amendment he would not.

Mr. HATHAWAY. The outsider who was investing in this is going to be hurt.

Mr. TALMADGE. But the farmer would also be hurt. The outsider——

Mr. HATHAWAY. The farmer with outside income is what the Senator is talking about.

Mr. TALMADGE. The Finance Committee closed the loophole on the syndicator. Under LAL, the legitimate farmer would be hurt if he had income in excess of $20,000 a year from nonfarm sources.

Mr. HATHAWAY. The Senator is correct. We gave that farmer, unlike some of the other businesses we covered, that much of a break that he could shelter up to $20,000 on a dollar-for-dollar reduction on income over that.

Mr. KENNEDY. Mr. President, will the Senator yield on this point? I would like to have the attention of the Senator from Georgia. As I understand it, that step was taken with regard to nonrecourse loans, but not with regard to deferral. So you still have the possibility of these kinds of distortions that the Senator from Maine and the Senator from Colorado are talking about in terms of deferral. And, as I support the provisions that were in title II in terms of the nonrecourse financing, I would hope that the same logic and good sense would also apply in terms of the deferral aspects which still create the abuse.

Mr. TALMADGE. What does the Senator refer to by deferrals? I do not have that particular item before me, but I thought the committee acted very effectively to close the loophole on farm syndications.

Mr. KENNEDY. That is the immediate effect of getting an interest-free loan.

Mr. TALMADGE. What is it the Senator is referring to specifically as a deferral?

Mr. KENNEDY. Well, any time that individuals are buying in and buying deductions.

Mr. TALMADGE. Buying what deductions?

Mr. KENNEDY. For any of the citrus, what we are talking about.

Mr. TALMADGE. As the Senator knows, Senator Holland, when he was in the Senate, wanted to prevent an expansion of the citrus industry. Citrus was already in surplus. Therefore, we required the citrus producers to capitalize, and it effectively put a brake on the expansion of the citrus industry and brought supply more in line with demand, and they do capitalize now.

Mr. KENNEDY. That is right.

Mr. TALMADGE. Others do not.

Mr. KENNEDY. That is right.

Mr. TALMADGE. But the LAL provision would hit the little farmer in Georgia who is trying to produce pine trees, and we are urging him to do so because we think there will be a timber shortage in future years, and it takes 52 years to produce saw logs and a loblolly pine tree in Georgia. Under LAL, he would be required to capitalize his legitimate expenses. For 52 years he could not deduct the expense of keeping fire out of his pine trees, the expense of trying to keep insects out of his pine trees, or the expense of loan interest and taxes that he pays while trying to produce his pine trees. I think such a provision is inequitable and wrong.

Mr. KENNEDY. Could the Senator, just on this point——

Mr. TALMADGE. I yield. I think the Senator has the floor. He yielded to me.

Mr. KENNEDY. That is right. But the Senator understands that even with the provisions that the Senator has taken on the nonrecourse loans, which is title II, it is still possible for the dentist from Boston to buy into these tax shelters. He can buy up these tax losses and write them off against income in any particular year and, in effect, get an interest-free loan from the Federal Government. This clearly distorts the farm market areas.

Mr. TALMADGE. As a syndicator, he could not. If he wanted to buy land and plant trees, he could. But I would point out to the Senator that that venture is 52 years, and that is a long time for some fellow to try to figure on utilizing the tax loophole. They do not do it on that basis.

Mr. KENNEDY. I know the Senator is a member of the committee and has a keen understanding of it. But it is my understanding that the syndicator can still provide that opportunity for the rich and the wealthy purchaser of a tax shelter in this area in terms of the deferral aspect. I believe I am right about that, and I would hope that if I am, we could get the support of the Senator from Georgia on this particular amendment, because I think it does have the distortions which the Senator has recognized in supporting the prohibition of syndicating nonrecourse loans. But the deferral is still available to be purchased for tax shelters, even by the syndicates themselves.

Mr. TALMADGE. We worked very long and diligently in trying to close the loophole of syndicates, and I think we effectively did so. I think to go beyond what we did would be unwise, particularly on this LAL provision which, says a loss is not a loss. It says if you pay taxes you cannot deduct your taxes. It says if a farmer bought seed it is not a legitimate expense, and say that other items that are in reality expenses are not expenses. If this amendment becomes law it will say to the taxpayer, "You lost a lot of money but we won't let you deduct it."

Mr. HATHAWAY. It goes into the deferred account. He does not lose it. He is limited to the amount plus $20,000 of outside income, and over and above that he does not deduct it. Do not let Members believe that he never gets a deduction. If he pays for it he is going to deduct it at some time.

The PRESIDING OFFICER. Will the Senator suspend?

Mr. KENNEDY. May I ask unanimous consent that the order be deferred for about 3 minutes so that the Senator from Oregon may be recognized?

Mr. MANSFIELD. I ask that it be extended for 5 minutes.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. KENNEDY. The Senator asked questions of both of us and we did get sidetracked.

Mr. PACKWOOD. We had some discussion prior to the arrival of the Senator from Massachusetts, and the statement was generally made and, I think, agreed to, that all of these wealthy people who are sheltering these incomes, that we could reach that under a so-called minimum income tax if we write it correctly, rather than using the LAL if we chose to take that alternative. Does the Senator from Massachusetts agree that that is a correct statement?

Mr. KENNEDY. I would question it. I am a strong supporter of the minimum tax, but I do not think it will meet the problem.

Mr. PACKWOOD. Of course, all we have to do with the minimum tax, when it gets to the part about preference income, is say that it is not a preference income.

It is definition.

We can be sure it is paid, and a fair portion or a high portion is paid, but it is definition. You do not have to go the route of the LAL.

Mr. KENNEDY. Of course, as now conceived, the minimum tax will take 15 percent of the shelter, which means the other 85 percent will go untouched. That's not much reform.

I suppose we could inprove it by making the minimum tax progressive.

Mr. PACKWOOD. Yes.

Mr. KENNEDY. Which I think would make it stronger. If the Senator wants to suggest that as an amendment, I would support it. But I think it is quite unrealistic to think we would be able to reach it.

It is a question of what is an abuse and what is an incentive. The question applies to all these areas we have talked about—High rise office buildings, movie theaters, shopping centers, motels, and all the rest, would require that we do it in this way.

I think it is most ineffective at the present time. But I agree with the Senator from Oregon that fashioned in progressive ways, which I think is quite unrealistic to expect the Congress to adopt, there could be improvements.

Mr. PACKWOOD. I am still curious about another point—I asked the Senator from Colorado and the Senator from Maine—and that is the inclusion of this residential real property.

I heard what the Senator from Massachusetts said. This is not a low-income provision, not doing what is going into low income, and I have yet to find out it is left in here. The one thing we could have done to help low income, we changed the limit of depreciation. Carla Hills pleaded not to do it. But this is not a low-income provision. This is a high-income tax shelter left in this bill for reasons I cannot fathom.

Mr. HATHAWAY. I answered that earlier this morning. The Senator from Colorado and I would like to see it deleted.

Mr. PACKWOOD. It is the Senator's amendment.

Mr. HATHAWAY. It is not only ours, but of many other Senators. In order to get broadbased support for this entire package of amendments, which includes six different areas, we had to compromise all along the way.

The Senator from Colorado and I would like to cut out all of DISC.

Mr. PACKWOOD. We are building condominiums and apartments. What is the compromise, why the——

Mr. HATHAWAY. This is the argument we made to those who supported it, and we lost.

Mr. PACKWOOD. Why do they say to the Senate——

Mr. HATHAWAY. I do not recall the argument.

Mr. KENNEDY. If the Senator wants to pursue it, he will have my vote.

Mr. PACKWOOD. I do not agree with the whole concept of LAL's, but I believe it is left in because of the hope to pick up two or three votes on it.

Mr. HATHAWAY. That is correct.

Mr. PACKWOOD. We understand it has no merit, but it is the Senator's amendment.

Mr. HATHAWAY. But it is a compromise. I went along with it for broader base support than my own amendment, which would have been entirely different, and maybe would have gotten a couple of votes.

Mr. BROCK. I point out to the Senator from Massachusetts that I will offer a minimum alternative tax that does reach 60 percent of preference income, only a $7,500 exemption. It would substantially increase the tax and it is highly progressive.

PROTECTION OF LIVESTOCK PRODUCERS

The PRESIDING OFFICER (Mr. LEAHY). The hour of 1:05 having arrived, under the previous order the Senate will now proceed to the consideration of H.R. 8410, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments as follows:

On page 1, line 11, strike "$1,000,000" and insert "$500,000";

On page 2, line 1, strike "section" and insert "paragraph";

On page 2, line 4, strike "said" and insert "the";

On page 2, line 5, after "1921," insert "as amended";

On page 2, line 5, after "read" insert "as follows";

On page 2, line 14 strike:

commerce: *Provided, however,* That nothing in this section shall affect the jurisdiction of the Federal Trade Commission with respect to retail sales of meat, meat food products, livestock products in unmanufactured form, or poultry products as provided in section 406 of this Act

and insert in lieu thereof:

commerce, except that any such general wholesale food brokers, dealers, or distributors shall not be deemed to be 'packers' where the Secretary determines that their inclusion as 'packers' is not necessary to carry out the purposes of this Act

On page 2, line 23, strike "said" and insert "the";

On page 5, line 24, after "1921," insert "as amended";

On page 3, line 1, strike "said" and insert "those";

On page 3, line 5, strike:

(b) Sections 203(b) and 312(b) of the Packers and Stockyards Act (7 U.S.C. 193(b) and 213(b)) are amended by adding at the end of both sections the following new sentences: "The Secretary may also assess a civil penalty of not more than $100,000 for each such violation. In determining the amount of the civil penalty to be assessed under this section, the Secretary shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business. If, after the lapse of the period allowed for appeal or after the affirmance of such penalty, the person against whom the civil penalty is assessed fails to pay such penalty, the Secretary may refer the matter to the Attorney General who may recover such penalty by an action in the appropriate district court of the United States.".

and insert in lieu thereof:

(b) The Packers and Stockyards Act, 1921, as amended, is amended by striking out the words "live stock" and "live-stock" wherever they appear in the Act and substituting therefor "livestock".

On page 3, line 24, strike "That the" and insert "The";

On page 4, line 7, strike "while solvent" and insert "purchasing livestock";

On page 4, line 10, strike "Said" and insert "The";

On page 4, line 10, after "Act," insert "1921, as amended,";

On page 4, line 12, strike "to the Act";

On page 4, line 16, strike "the" and insert "this";

On page 4, line 22, strike "the" and insert "this";

On page 4, line 24, strike "bond," and insert "bond;";

On page 5, line 4, after "until" insert "a";

On page 5, line 5, after "until" insert "an";

On page 5, line 20, strike "Subsection" and insert "Section";

On page 5, line 20, strike "said" and insert "the";

On page 5, line 21, after "Act," insert "1921, as amended,";

On page 5, line 24, strike "the" and insert "this";

On page 5, line 25, strike "the" and insert "this";

On page 6, line 4, strike "Said" and insert "The";

On page 6, line 4, after "Act," insert "1921, as amended,";

On page 6, line 11, strike "however,";

On page 6, line 16, strike "representative" and insert "agent";

On page 6, line 17, after "to" insert "the";

On page 6, line 19, after "basis," insert "the";

On page 6, line 21, after "transfer" insert "of possession";

On page 6, line 2, after "to" insert "the";

On page 6, line 24, after "of" insert "the";

On page 6, line 24, strike "however,";

On page 7, line 1, strike "representative" and insert "agent";

On page 7, line 2, strike "demand" and insert "receive";

On page 7, line 10, strike "paragraph" and insert "subsection";

On page 7, line 15, strike "paragraph" and insert "subsection";

On page 8, line 1, strike "the" and insert "this";

On page 8, line 2, after "as used in" strike "the" and insert "this";

On page 8, line 4, strike "Said" and insert "The";

On page 8, line 5, strike "hereby";

On page 8, line 6, strike "thereto";

On page 8, line 24, strike "however,";

On page 9, line 1, strike "$1,000,000" and insert "$500,000";

On page 9, line 4, strike "however,";

On page 9, line 6, strike "fifteen" and insert "thirty";

On page 9, line 8, strike "five" and insert "fifteen";

On page 9, line 17, strike "Said" and insert "The";

On page 9, line 17, after "Act," insert "1921, as amended,";

On page 10, line 2, after "respectively" insert a colon and the following:

Provided, That this section shall not preclude a State from enforcing a requirement, with respect to payment for livestock purchased by a packer at a stockyard subject to this Act, which is not in conflict with this Act or regulations thereunder: *Provided further,* That this section shall not preclude a State from enforcing State law or regulations with respect to any packer not subject to this Act or the Act of July 12, 1943.".

On page 10, line 15, strike "such Act" and insert "the Packers and Stockyards Act, 1921, as amended,";

On page 10, line 18, strike out:

"(d) There is hereby authorized to be appropriated to carry out the purposes of this Act for each fiscal year beginning with the fiscal year ending September 30, 1978, such sums as may hereafter be authorized biennially by the Congress.

On page 10, line 23, strike "(e)" and insert "(d)";

On page 11, line 12, strike "(f)" and insert "(e)"; and

On page 11, line 12, strike "(c)" and insert "(d)".

The PRESIDING OFFICER. Time for debate on this measure is limited and controlled.

Who yields time?

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture and Forestry and William E. Seale of my staff, be granted privilege of the floor during consideration of H.R. 8410, including all rollcall votes thereon: Michael R. McLeod, Carl P. Rose, Dale L. Stansbury, Steven A. Storch, William A. Taggart, and Roy Frederick.

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

Mr. HELMS. Will the Senator yield?

Mr. HUDDLESTON. Yes.

Mr. HELMS. Mr. President, I ask unanimous consent that George Dunlop of my staff be granted privilege of the floor, as stated in the previous request.

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

Mr. HELMS. I thank the Chair and I thank the Senator.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be considered as original text for the purpose of further amendment.

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

Mr. HUDDLESTON. Mr. President, today we are considering H.R. 8410, legislation that will restore equity to the basic relationship between livestock producers and purchasers. This is needed legislation that will help assure the American public of a readily available source of meat and meat food products. Livestock producers will not continue to raise livestock if they do not have assurance that they are going to be paid for their efforts. H.R. 8410 goes a long way toward providing that assurance.

The Packers and Stockyards Act was enacted in 1921. At that time, over 80 percent of all livestock was sold through large terminal markets. The Secretary of Agriculture was authorized, under the act, to maintain close supervision of the transactions involving the purchase and sale of livestock at these markets. The act has served its purpose well. In 1935, it was amended to bring the purchase and sale of poultry at major markets under the Secretary's regulatory jurisdiction. A basic deficiency in the act was remedied in 1943 when the Secretary was granted permanent authority to require bonds of market agencies and dealers. From 1924 until 1942, the discretionary authority to require such bonds was granted to the Secretary in the Department of Agriculture appropriation acts.

Since 1921, the livestock marketing pattern has changed considerably with the most dramatic changes taking place during the decade following World War II. By the mid-1950's, it was clear that packers were purchasing a large percentage of their slaughter livestock through country auction markets. These markets were brought under the Secretary's supervision in 1958. National livestock marketing patterns continued to change as packers pushed to acquire livestock at its source. Today, the Department of Agri-

culture estimates that well over 80 percent of all slaughter livestock is purchased by packers directly from producers and custom feedlots.

PACKER FINANCIAL DIFFICULTIES

The change in marketing patterns has had serious ramifications for producers. Data from the Packers and Stockyards Administration show that during the 18-year period, from January 1958 through March 1975, 167 packers have experienced financial difficulties and failed to pay for livestock in the amount of $45.4 million. This is an average of nine packer failures per year.

As of March 1975, only $2.4 million of the $45.4 had been paid leaving an amount still owed of $43 million.

Since March 1975, two additional packers have joined the ranks of the financially troubled, leaving $769,000 and $460,000, respectively, unpaid for livestock purchased. Adding these amounts to the previous total results in $46.4 million owed to unpaid livestock producers over the past 18½-year period.

The situation gained national attention when 1 of the 10 largest meat packers in the country, American Beef Packers, declared bankruptcy. Producers in the States of Iowa, Nebraska, Texas, Colorado, Oklahoma, Kansas, South Dakota, Missouri, Wyoming, Minnesota, New Mexico, Indiana, and California were left unpaid for over $20 million worth of livestock.

The tragedy, as far as livestock producers and feeders are concerned, is that the money generated through their labors—in the form of inventory, accounts receivable, and proceeds—was distributed to the company's secured creditors and not to the unpaid producers and feeders.

This situation must be corrected. The risk livestock sellers now face in dealing with packers must be substantially reduced. No single provision of law can attain these objectives However, the combination of provisions contained in H.R. 8410 is our best assurance that the past losses suffered by producers because of packer bankruptcies will not continue in the future.

SECTION-BY-SECTION SUMMARY

SECTION 1

Section 1 of H.R. 8410 authorizes the Secretary of Agriculture to require reasonable bonds from packers. He already has this authority in relation to market agencies and dealers. It was clear during our committee deliberations that the committee members intended at the minimum that the Secretary would require a bond from packers covering 2-days' average purchases.

In the American Beef Packers bankruptcy, the amount owed unpaid sellers was approximately $21 million. A 2-day bond, had it been required at that time, would have covered about $6 million. It is clear that the bonding provision, in isolation, is not the complete answer. Even if there had been bonding in the American Beef Packers situation, $15 million in money owed to unpaid sellers would remain unpaid.

SECTION 2

Section 2 of the bill amends the definition of the term "packer" as used in the Packers and Stockyards Act. Those persons who are engaged in the business of buying livestock in commerce for slaughter, or manufacturing or preparing meats or meat food products for sale or shipment in commerce would continue to be defined as packers. For the first time, general wholesale food brokers, dealers, or distributors would be deemed to be packers, except where the Secretary determines that such inclusion is not necessary to carry out the provisions of the act.

Box beef brokers are exerting a tremendous influence on the meat marketing system and the indications are that their role will continue to expand in the future. Therefore, it is advisable for the Secretary to have jurisdiction over them. This is also true of brokers, dealers, or distributors who deal in a substantial volume of meat and meat food products and who influence the entire chain of meat marketing. The new language is not intended to include as packers those persons who only incidentally deal with meat, or handle a very small volume of such meat or meat food products.

SECTION 3

Section 3 of H.R. 8410 eliminates the need for the Secretary to prove that each alleged violation of the act is "in commerce" if the respondent is a packer, stockyard owner, market agency, or dealer. The effect of this amendment is to bring within sections 202(a) and 312(a) of the act all transactions of persons subject to the Secretary's jurisdiction under the act, and not merely those transactions which occur in commerce. Under present law, the Secretary must prove that both the defendant is covered by the act and that the particular transaction is in commerce.

SECTION 4

Section 4 of the bill authorizes the Secretary, after he determines that a packer is insolvent: First, to order the packer to cease and desist from purchasing livestock, or second, to allow the packer to continue purchasing livestock only under conditions that the Secretary may prescribe to effectuate the purposes of the act. This new provision would prevent an insolvent packer from recklessly continuing to purchase livestock until moments prior to filing for bankruptcy. This provision would also eliminate the argument that the current law actually encourages packers to purposely increase their buying activities prior to declaring bankruptcy in order to relieve their secured creditors at the expense of producers.

SECTIONS 5 AND 6

Sections 5 and 6 of H.R. 8410 increase the power of the Secretary and private parties to seek relief through the courts. Section 5 would allow the Secretary under specified circumstances to seek a preliminary injunction or temporary restraining order for violations of the Packers and Stockyards Act. Under section 6, packers, stockyard owners, market agencies, or dealers would be liable to the party injured by any violation of the act or order of the Secretary relating to the purchase, sale, or handling of livestock.

SECTION 7

Providing that livestock sellers are promptly paid for their livestock is a major goal of the legislation. Section 7 requires each packer, market agency, or dealer purchasing livestock, before the close of the next business day following the purchase and transfer of possession, to wire transfer funds or deliver to the seller or his duly authorized agent, at the point of transfer of possession, a check for the full amount of the purchase price. Delivery of a draft would not satisfy this requirement.

In the case of a purchase on a carcass or "grade and yield" basis, the delivery of the check or wire transfer of funds would not be due until the close of the first business day following determination of purchase price.

The use of the mails would be permitted if the seller or his authorized agent is not present to receive payment at the point of transfer of possession.

The parties would be free to agree between themselves to either another method of payment that would result in the producer's receiving payment within the time limits established by section 7 or to terms that would extend the prompt payment period. There are two ramifications of these mutually agreed to choices. If the buyer and seller agree to payment by the close of the next business day, any delay or attempt to delay payment shall be considered an "unfair practice" in violation of the act. If the producer and purchaser agree to payment beyond the prompt payment period established by this section, the transaction is not covered by this section and the transaction will be considered a credit sale rather than a cash sale. The producer will, therefore, not be protected by the statutory trust established under section 8 of this bill.

SECTION 8

Section 8 of the bill requires any packer with annual purchases of over $500,000 to hold all livestock, meats, receivables and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have received payment for such livestock.

At this point, I ask unanimous consent to have printed in the RECORD the response of Marvin L. McLain, Administrator, Packers and Stockyards Administration, to specific questions presented by Representative CHARLES THONE. The answers are most instructive, particularly the Department's perception on how the statutory trust will actually operate. This has been the most misunderstood section of the bill, and I trust that these answers will remove any misconceptions.

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

DEPARTMENT OF AGRICULTURE,
PACKERS AND STOCKYARDS ADMINSTRATION,
Washington, D.C., May 4, 1976.

HON. CHARLES THONE,
House of Representatives,
Washington, D.C.

DEAR MR. THONE: We are pleased to furnish you with the information you requested in your letter of April 30, 1976, concerning H.R. 8410. Our replies to your questions have been arranged in the enclosure numerically as set out in your letter.

If we can supply you with additional information, we shall be pleased to do so.

Sincerely,

MARVIN L. MCLAIN,
Administrator.

INFORMATION CONCERNING H.R. 8410

1. Section 8 of the bill impresses a trust on all "livestock purchased by a packer in cash sales and all inventories of or receivables or proceeds from meat, meat food products, or livestock derived therefrom" for the benefit of all unpaid cash sellers until full payment has been made. It was not intended by the Committee that any on-going segregation of funds (custodial account) would be required by this provision. Do you see any necessity for segregation of such current assets?

Answer: No. There would be no need for any special segregation of such current assets, since under the bill the trust attaches on such livestock, inventories, receivables and proceeds to the extent of the amount owed the unpaid cash sellers and there would be no necessity for a determination of the amount of that trust except in situations, such as bankruptcy, where the interests of various claimants must be specifically determined. The amount of the trust could be determined from the packer's records at any time by an audit. Although the livestock, inventories, receivables and proceeds derived from the livestock purchased by the packer in cash sales would be commingled with all other assets in the normal operations of the business, such an audit would reveal the extent of the interest of the unpaid cash sellers insuch commingled assets and therefore subject to the trust.

2. The Committee did not intend that the trust provisions, section 8, extend to the meats or meat food products purchased (and held) by retailers from the packer in good faith transactions; but rather, that the trust would attach to the accounts receivable, cash (or equivalent) or proceeds received by the packer in payment for such products. For purposes of conveying the practical effects of such a procedure to the Membership on the Floor, could you explain how this would work and whether or not you believe this would work a hardship on the packers or the retail purchasers?

Answer: The Committee Report 94-1043 states at page 7 that: "The trust does not extend to livestock, meats, etc., which have been purchased from the packer in good faith transactions". Upon the purchase by a retailer in the ordinary course of his business, the packer would then have an account receivable from the retailer for the purchase price of the product and that account receivable would be subject to the trust. When the retailer pays the purchase price, the trust would then attach to that payment. In the event of bankruptcy of the packer after the purchase in the ordinary course of business and prior to payment by the retailer to the packer, the relationship of the retailer and the packer would not change in any respect by virtue of the trust. The retailer would still owe the packer the purchase price of the product and when he pays for the product, the payment would be subject to the trust to the extent of the amount owed to the unpaid cash sellers of the livestock. The packer or the livestock seller would not be adversely affected by the fact that the trust would be applicable only with respect to the meat, meat food products, and livestock products in the possession of the packer, and then to the packer's account receivable for the sale of the products, and then to the proceeds paid by the retailer to the packer to satisfy the account receivable.

3. The Committee intended that the trust established by section 8 be a constructive statutory trust arising by operation of law and that it need not specifically identify the livestock, accounts receivable, meat or meat products to which it attaches until the event (insolvency or bankruptcy) occurs which, as a result of its occurrence (marshalling of assets, etc.), results in the identification of certain assets to which it has attached.

As a practical matter, based on the experience of the Packers and Stockyards Administration, should such identification of assets to which the trust would attach, in the event of bankruptcy, cause any difficulty in the administration of this program as outlined above?

Answer: No. There should be no problem encountered in identifying the livestock, accounts receivable, and proceeds from the meat, meat food products, or livestock products subject to the trust for the unpaid cash sellers of the livestock. Under section 401 of the Packers and Stockyards Act, every packer is required to keep such accounts, records and memoranda as fully and correctly disclosed all transactions involved in his business. Insofar as we are aware, every packer keeps books and records from which the amount of the inventories, receivables and proceeds and the amount owed to each unpaid cash seller of the livestock to the packer can be determined by an audit of those books and records. Upon bankruptcy, for example, an audit would reveal the amount of the commingled inventories, accounts receivable and proceeds, the amount owed to the unpaid cash sellers of livestcok to the packer and thus the extent of the application of the trust. The audit would reveal the amount which must be paid to the unpaid cash sellers before the commingled inventories, accounts receivable, and proceeds are freed from the trust. Accordingly, we foresee no problem in the administration of this program as contemplated by the Committee.

4. The Committee intended that existing secured credit transactions entered into between packers and their banks or other financing agents become subject to the trust provisions of this bill upon the date of enactment. Could the Packers and Stockyards Administration generally give publicity to the prospective enactment of this legislation so that packers would be on notice of its provisions? Further, do you believe such an effective date provision would work a hardship on the industry?

Answer: Yes. The Packers and Stockyards Administration would be glad to cooperate with the Committee in advising affected packers of action by the Congress with respect to this provision. It is our understanding that the various packer associations have been keeping currently abreast of developments in connection with the bill and they are no doubt keeping their membership currently advised. Also, various financial organizations have been following the developments in connection with the trust provisions. Accordingly, we would anticipate that all affected packers will receive timely notice of action by the Congress with respect to the trust provision and we would not anticipate any hardship on the industry in this regard.

5. Based on your experience with packers and their credit arrangements, need a "floating lien creditor" arrangement between a packer and his banker or other financing entity be in any way adversely affected by a trust provision such as that contained in Section 8? Explain.

Answer: The Section 8 trust provision would have an effect upon the credit arrangements between a packer and his banker or other financial entity since the lender would no longer have the livestock of the unpaid cash sellers and the products therefrom available as a source of additional security for his loan to the packer, until the livestock sellers have been paid. However, we would not anticipate that this result will have any adverse long term impact upon the credit arrangements of the packing industry.

6. Based on information you provided me, the states of Texas, Oklahoma and Oregon have laws relating to liens on livestock and products therefrom. A suggestion has been made that the Congress pass a bill containing a provision establishing a lien on behalf of the sellers of livestock. Based on your experience, would the cost of a trust provision such as we have in H.R. 8410 cost any more than a federal lien provision?

Answer: Currently three states—Texas, Oklahoma and Oregon—have laws relating to liens on livestock and products therefrom. There is also legislation pending in the states of Florida and California, which provide for liens on livestock sold to packers until payment is received by the seller.

There would not appear to be any material difference in the cost between the trust provision contained in this bill and a federal lien provision. The trust provision is largely self enforcing and would only become effective in the event of bankruptcy or inability of the packer to pay.

7. How many states currently have bonding requirements for packers? (Please provide a list by state.)

Answer: There are currently 26 states with bonding requirements for packers. These requirements vary widely from $1,000 to two full days' average purchases. A list of these states with the amount of bond required is attached.

STATE HAVING LAWS REQUIRING BONDS OF PACKERS AS OF MAY 3, 1976

States with bond requirements

Alabama, $10,000 to $50,000+10% of excess over $50,000.

California, $4,000 (Required only of packers buying direct from producers).

Colorado, $2,000 to $100,000.

Florida, $1,000 to $50,000.

Georgia, $1,000 to $50,000 (Bond to be not less than 1/25 of total annual purchases with maximum of $50,000. Ga. Code requires bonds only of dealers and packers purchasing at sales establishments, but bond form used does not restrict coverage).

Illinois, $6,000 to $50,000+15% of excess.

Indiana, $1,000 to $50,000+10% (Required only of packers operating buying stations).

Iowa, $5,000/up—no maximum (Two full days purchases).

Kentucky, $2,000 to $10,000 (Required only of packers owning buying stations or buying at plant).

Minnesota, $5,000/up.

Mississippi, $10,000 (Required only of packers with buying facilities).

Missouri, $2,000 (Required of packers w/ buying station or buying at plant).

Montana, $5,000/up.

Nebraska, $5,000/up (Bond required of packers buying 500 animal units annually other than through bonded selling agencies) (Two full days purchases).

Nevada, $5,000 to $100,000.

New Mexico, $1,000.

New York, $1,000 to $200,000.

North Dakota, $5,000 to $50,000+10%.

Ohio, $10,000/up (Average of high ten days' business applies only to packers purchasing at least 250 cattle or 500 head small stock).

Oregon, $20,000/up—no maximum (Two full days purchases).

Rhode Island, $10,000.

South Carolina, $3,000 to $25,000 (Satisfactory financial statement acceptable).

South Dakota, $5,000 to $50,000+10%.

Utah, $5,000 to $25,000+10%, maximum $100,000.

Vermont, $5,000 to $150,000.

Washington, $7,500/up—no maximum.

8. How many states currently have prompt payment statutes for packers? (Please provide listing.)

Answer: Nineteen states have prompt payment statutes of some kind which affect packer payment practices. A list of these states is attached.

STATES HAVING LIVESTOCK PROMPT PAYMENT LAWS FOR PACKERS, MAY 3, 1976

State and requirement

Alabama, pay before close of next business day following purchase. Auction operator responsible for collecting from packers.

California, shall pay within 30 days from delivery or as specified in contract.

Colorado, pay within thirty days or time specified in contract.

Florida, auction operator responsible for collecting for livestock sold to packers on date of sale, payment may be made by cash, check or draft.

Georgia, auction operator responsible for collecting for livestock sold to packers on date of sale, payment may be by cash, check or draft.

Illinois, pay within 24 hours from time of purchase or within time agreed upon by seller and buyer.

Iowa, pay within 24 hours or upon determination of purchase price. If sold on grade and yield, must pay 80% at time of delivery and remainder by end of next business day after determining grade and yield and full purchase price.

Kansas, pay by close of next business day following purchase unless otherwise agreed upon by seller and buyer.

Nebraska, pay within 24 hours following purchase or within 24 hours from time determination of purchase price whichever may occur last.

Nevada, shall pay within 30 days from delivery or as specified in contract.

New York, pay within 15 days following date of purchase.

North Carolina, auction operator responsible for collecting for livestock sold to packers on date of sale.

Oklahoma, payment due on day ownership of livestock is transferred. If after banking hours due by close of next business day following transfer of ownership. If sold on grade and yield, payment due on day grade and yield is determined.

Oregon, payment due not later than the second business day after the day the packer takes delivery. If sale is made under contract payment is due within time specified in contract.

South Carolina, auction operator responsible for collecting for livestock sold to packers on date of sale.

South Dakota, grade and yield purchases only covered. 80% due at time of sale or delivery, balance due when grade and yield has been determined, 24 hours.

Texas, payment due on day the transfer or possession occurs. If on grade and yield, payment is due not later than the close of the next business day following determination of grade and yield.

Vermont, payment due 72 hours following time of purchase.

Washington, payment due within thirty days from date of purchase unless otherwise specified in contract.

9. An allegation has been made that the cost of H.R. 8410's bonding (2¢) prompt payment (25¢), and trust provisions (26.6¢) will cost "53.6 cents per head" or about $50 million to the meat industry and $100 million to the consumer. Please examine and comment on this claim based on your experience with the industry.

Answer: It is difficult to estimate the actual cost of H.R. 8410 to the meat packing industry. If all packers slaughtering more than $500,000 worth of livestock are bonded for their livestock purchases, the cost would amount to roughly 2¢ per head for cattle and less for small stock. This cost for delivery of checks would be affected by whether the packer purchases his livestock on a grade and yield basis, at public auction and terminal markets, at its own buying stations or packing plant, or takes title at the feedlot. The contention that the prompt pay provision of this bill would cost packers 25¢ per head or $50 million for a courier service to handle checks has, however, no basis in fact. Actually, payment for most of the approximately 130 million head of livestock purchased for slaughter by packers would not require any delivery services. In most instances slaughter livestock are purchased by packer buyers at their packing plants or buying stations or at terminal or auction markets and feedlots with the weight and price known at time of sale. This permits payment to be made by the buyer or his representative at the time of purchase. Even range lambs are sorted and weighed by the packer buyer so later delivery of a check by courier would for the most part be unnecessary. In fact, the only large number of livestock that might require some extra expense for delivery of payment by check would be those fat cattle purchased at the approximately 700 largest feedlots by packers by telephone or for later delivery when their buyers would not be present.

The actual number of such livestock is not known but would probably not exceed half of the 13 million head sold at these feedlots. This would represent a courier delivery cost at 25 cents a head of possibly $1 million to $2 million instead of the $50 million figure claimed by some in the meat packing industry. However, we have no basis for judgment as to the accuracy of the 25 cents per head cost.

The $100 million cost to consumers is even more difficult to pinpoint and may be as much exaggerated as the $50 million figure referred to above. Much depends on the effort by slaughterers to strengthen their financial condition by bringing new capital into their business. Certainly, if packers would be limited in their ability to borrow as much money as a result of the trust provision as some members of the packing industry indicate, the cost of interest is not likely to exceed its current cost. However, if additional funds should be required by packers in order to pay livestock producers more promptly, then some additional interest expense currently borne by producers should be expected to be paid by packers since the funds obtained from producers through delayed payment is not currently costing the packing industry any interest.

10. How many hogs, lambs, cattle and calves are sold each year? Of these sales, how many cash sales (livestock payable) are outstanding at any one time on the average? How many are for credit sales—if known?

Answer: During the year 1974, packers purchased for slaughter 36,800,000 cattle, 3 million calves, 81,800,000 hogs and 8,800,000 sheep and lambs. The total value of this livestock was approximately $22 billion or about $85 million in purchases per day. We do not have statistics which would show the total amount of accounts payable for livestock owed by this industry at any one time, but it could range from several days purchases to a week or more. We know of no feeders, producers or farmers who intentionally extend credit in selling livestock to meat packers. All sales are intended to be cash sales.

11. Will a federal bonding requirement increase or decrease costs over those for state bonding? Explain? How about time and cost required by packers in complying with a variety of bonding (state) requirements?

Answer: The federal bonding requirement should decrease the cost of bonding for those operating under state bonds. Usually the cost per thousand for federal bonds is somewhat lower than for a state bond. Surety companies usually offer a lower rate for federal bonds because they know P&SA requires financial statements from persons bonded, audits firms in poor financial condition, and has been successful in getting many firms subject to the Act to obtain additional working capital. In addition, it would be more expensive for packers to comply with a number of varying state bonding requirements than to obtain a single federal bond. In addition to paying the higher bond premium, the packers would also have to file the necessary financial papers to obtain bonds under varying conditions and meet a variety of other state requirements.

12. How much bonding would American Beef Packers have carried had this bill been enacted into law in 1974? What proportion of unpaid seller claims would this have met?

Answer: If this bill had been enacted into law in 1974, American Beef Packers would have carried a bond in the amount of $6.6 million if the bond had been figured on the basis of two days' purchases. At the time ABP filed under Chapter XI of the bankruptcy laws, they owed $20.7 million for livestock. By selling plants and other property, approximately $11 million has been paid to livestock sellers. Appropriately $9.7 million remains to be paid on livestock debts. A $6.6 million bond would represent approximately 30% of the original amount owed or approximately 68% of the remaining amount owed to livestock sellers.

13. How many slaughterers (packers) are there in the United States, and how many would be subject to this bill (giving effect to the $500,000 exemption)?

Answer: There are approximately 1,720 slaughterers doing business under federal meat inspection. Approximately 950 of these firms would be subject to the bonding provisions of the bill.

14. Please provide a current summary of failing packers or livestock firms who have gone out of business owing for livestock? How many failures have there been in recent months and where were they doing business?

Answer: During calendar year 1975, eleven meat packers, including American Beef Packers, discontinued business owing a total of $26.85 million for livestock. Since July 1975, there have been five packers discontinuing business owing $2.28 million for livestock and were located in the states of California (3), Florida (1), and Pennsylvania (1).

15. Do you have any information (or have you had complaints) about losses by packers because of payments to sellers who have not disclosed that their livestock was mortgaged? Is information on the frequency of these payments available anywhere that you know of (if you do not collect it)?

Answer: We do not have statistical information available which would indicate the amount of losses by packers as a result of dual payment because of sellers' failure to disclose mortgaged livestock. Very little evidence of serious losses experienced by packers has been brought to our attention, although undoubtedly some losses have been incurred. We are not aware of any available source for this information.

16. How many states (of which you are aware) have legislation under consideration regarding bonding, prompt payment or liens on behalf of sellers or livestock?

Answer: Florida and California are currently considering revamping their state laws to strengthen the protection provided the livestock producers in selling to packers. A number of other states have indicated an interest in doing the same if federal legislation is not enacted. Undoubtedly, most states will hold back on legislation until the type and extent of federal legislation to be enacted is known.

SECTION 9

Mr. HUDDLESTON. At the present time, 26 States have enacted bonding requirements for packers. These requirements vary widely from $1,000 to 2 full days' average purchases. Nineteen States currently have prompt payment statutes of some kind which affect packer payment practices. Section 9 of the bill would preempt these bonding and prompt payment laws. However, the States are not preempted from enforcing a State requirement with respect to payment for livestock purchased by a packer at a stockyard subject to the Packers and Stockyards Act which is not in conflict with the act or the regulations issued thereunder. The States would also retain their authority to enforce State laws or regulations with respect to any packer not subject to the Packers and Stockyards Act or the act of July 12, 1943.

Mr. President, these are the major provisions of H.R. 8410. They complement each other and must be viewed together, since no single provision in isolation can obtain the objectives of this legislation.

I urge my colleagues to support this legislation and thereby restore equity to the livestock marketing system.

I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, how much time remains?

The PRESIDING OFFICER. One hour.

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

Mr. President, it is my pleasure to rise in support of H.R. 8410 as reported by the Committee on Agriculture and Forestry. This bill deals with a very controversial subject.

It is indeed a tribute to the committee and its chairman (Mr. TALMADGE) that this significant legislation is before us today. I also commend the chairman of the subcommittee (Mr. HUDDLESTON) for his efforts concerning this legislation.

Senator CLARK and I have labored long and hard to see this legislation become a reality.

The recent American Beef Packers bankruptcy has focused national attention on the plight of livestock producers. The producers are frequently at the mercy of rising feed prices, weather conditions, and market conditions. Their entire business operation is subject to these uncertainties. On top of all these uncertainties, in recent years producers have had to cope with the uncertainty of ever being paid for the livestock they sell to packers.

Mr. President, one of the largest beef packers in the world, the American Beef Packers, is located in Omaha. Their doors closed under a bankruptcy proceedings. As a result, all of the inventory, all of the cash, all of the accounts receivable went to pay secured creditors. Individuals who had sold livestock for a number of days received nothing. It is estimated there were over $20 million worth of "no funds" checks held by farmers and feeders in the States of Nebraska and Iowa.

Field hearings were held in connection with this bill. Some of these farmers faced a dire situation. Many of them had to put a second mortgage on their land.

I recall one case in particular, a young boy who had worked his way up through the 4–H Club and Future Farmers of America, and had let his cattle accumulate. He had in number about 39. He sold them all to American Beef. He received a worthless piece of paper, a check that could not be cashed.

His cattle went into the chain of operations to be slaughtered. He had no lien on the proceeds, the inventory or anything else.

Neither did any of the other farmers and feeders. Neither was the packer under bond to pay.

This is what this legislation is all about.

Frankly, Mr. President, this will cause a hardship on some packers, but there is no other way out. The packers cannot and should not operate on the farmers' and feeders' money.

I also believe it is a situation where we must have Federal law. Livestock are bought and sold across State lines. Some packing companies have plants in two or more States. To have each State regulate this would cause confusion and controversy over the rights of the parties involved when trouble arises.

Also, if the States undertake to write their own bonding laws, it could be more difficult to buy a bond at a reasonable price. With Federal law there will be one bond required. There is hope there will be competition between these various bonding companies and that these bonds can be purchased without extreme or unreasonable difficulty.

The situation at the present time needs remedy.

This is a glaring inequity. It is an inequity that has been fostered by the Packers and Stockyards Act and the bankruptcy laws. The bill before us today would remedy the situation.

H.R. 8410, as amended by the committee, makes major changes in the Packers and Stockyards Act and the act of July 12, 1943, designed to assure livestock producers they will receive payment for the animals they send to packing plants. The principal provisions of the bill would:

First. Authorize the Secretary of Agriculture to require any packer with average annual purchases of over $500,000 to be bonded.

Second. Require any packer with average annual purchases of over $500,000 to hold all livestock, meats, receivables and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have received payment for such livestock.

Third. Include wholesale brokers, dealers, and distributors marketing meats, meat food products or livestock products under regulation as packers under title II of the Packers and Stockyards Act, except where the Secretary determines such inclusion is not necessary to effectuate the purposes of the act; and include under the jurisdiction of the Secretary all transactions of packers who operate in commerce—not merely those transactions which are themselves in commerce.

Fourth. Give the Secretary authority to order packers to cease and desist from operating while insolvent except under such conditions as he may prescribe.

Fifth. Give the Secretary specific authority to request the Attorney General to seek a temporary injunction or restraining order in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Packers and Stockyards Act were permitted to operate while insolvent or otherwise in violation of the act.

Sixth. Authorize the filing in court of a private cause of action seeking damages against any person subject to the Packers and Stockyards Act arising out of a violation of any provision of the act, or of any order of the Secretary under the act, relating to purchase, sale, or handling of livestock.

Seventh. Require packers, market agencies, and dealers purchasing livestock to deliver to the seller or his agent at the point of transfer of possession of the animals—by check or wire transfer of funds to the seller's account—the full amount of the purchase price before the close of the next business day, unless otherwise agreed in writing. However, if the seller or his duly authorized agent is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer will wire transfer or place a check in the U.S. mail for the full amount of the purchase price, by the close of the next business day. Any delay or attempt to delay payment would constitute an unfair practice in violation of the Packers and Stockyards Act.

Eighth. Provide that the packer bonding and prompt payment provisions would preempt State laws on the same subject. However, a State would not be preempted from enforcing its prompt payment requirement applicable to packers purchasing livestock at a stockyard, if the State requirement is not in conflict with the applicable act or regulations.

This legislation will protect livestock producers, and by doing so will assure the American public a constant source of meat and meat food products. Livestock producers are businessmen; as businessmen they will not continue in business without assurance that they are paid for their labors. This is simply what every working person expects.

The bill will take a unified view toward livestock marketing. The primary provisions of the bill are packer bonding, packer prompt payment, and the imposition of a statutory trust. When the Secretary's authority to regulate the purchasing activities of insolvent packers is added to this list, it becomes apparent

that a recurrence of the disastrous effects of packer bankruptcies is all but removed.

A vibrant, healthy livestock industry is essential to our national well-being. H.R. 8410 will insure the industry's continued vitality. I urge my colleagues to vote for passage of this bill.

Mr. President, I reserve the remainder of my time.

Mr. CLARK. Mr. President, will the Senator from Kentucky yield me 10 minutes?

Mr. HUDDLESTON. I yield 10 minutes to the Senator from Iowa.

Mr. CLARK. Mr. President, I rise in support of H.R. 8410, a bill to amend the Packers and Stockyards Act of 1921 to assure livestock producers that they will be paid for the anmials they sell, in the event of packing-plant bankruptcies.

In January 1975, a disaster of major proportions struck more than 950 producers in 13 States. Iowa and Nebraska were the hardest hit. The catastrophe cost people in those two States $12 million at a time when they were already besieged by bad weather and low prices. Like a blizzard or a drought, this disaster was sudden and devastating. The livestock producers and businesses it hit could do little more than try to pick up the pieces and start again. But this was not a natural disaster. It was the financial collapse of one of the Nation's 10 largest packers—American Beef Packers, Inc. of Omaha.

The producers damaged by the failure of American Beef were not speculators. They had sold livestock for cash, expecting to be paid. More than 1 year later, many producers and others are still wondering how it could have happened. The full answer may never be known, but the Packers and Stockyards Administration sent the Congress a report that provides some fascinating and disturbing conclusions. "Deception and callous disregard for the livestock producers; distant bank accounts; special payments to friends; and improper accounting methods"—each had a part in the collapse of American Beef and the $21 million loss to producers that followed it, according to the report, and, to compound the disaster, it seems that the company continued to purchase livestock even though it knew the checks paid to livestock producers were worthless.

The Congress cannot help those victims. Nor can it help the victims of the more than 174 other packer failures that cost livestock producers another $25 million over the past 18 years. But Congress can and must do something to prevent this awful tragedy from happening again.

In response to this situation, Senator CURTIS and I jointly introduced S. 1532, the Packer Bonding Amendments of 1975.

The House Committee on Agriculture reported H.R. 8410 just as the Senate Agriculture Committee was about to begin consideration of S. 1532. Because both bills dealt with the same subject matter and followed the same approach, it was decided that the Senate Agriculture Committee would postpone deliberations on S. 1532 until H.R. 8410 passed the House and was referred to the committee. The bill passed the House on May 6, 1976; was referred to the committee on May 11, 1976; and reported June 4, 1976.

I would like to take this opportunity to commend the Senator from Kentucky (Mr. HUDDLESTON), chairman of the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices for his efforts and his subcommittee's efforts to further this legislation, and the distinguished chairman of the Committee on Agriculture and Forestry, Senator TALMADGE, who was sympathetic to the concerns of the committee members from livestock producing States.

During 1975, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices held various hearings on this matter in Omaha, Nebr., and in Washington, D.C. In the course of the hearings, we heard from USDA, the Department of Justice, a number of individual livestock producers, many State and national livestock producer and feeder associations, representatives of the grocery and hotel industries, and several packers and national packer organizations.

In spite of the dramatic evidence of need for legislation revealed by those hearings, the Department of Agriculture and the Department of Justice opposed any legislation on the ground that the administration opposed additional regulation. However, on May 5, 1976, Mr. THONE of the House of Representatives received notice from Mr. James T. Lynn, Director of the Office of Management and Budget, stating the administration supports the passage of H.R. 8410.

Mr. President, the need for this legislation is overwhelming. Under existing law, it has become common practice for packers to take delivery on livestock, and then pledge a security interest in the carcasses of those livestock to a third party. Some packers also delay payment for the livestock in an effort to reduce their need for capital. These practices shift a great deal of risk to livestock producers and their bankers, often with disastrous results.

The bankruptcy of American Beef put people out of work. It cheated producers out of millions of dollars, and in my judgement, it dealt a serious blow to the credibility of the entire packing industry. The victims of American Beef are having their day in court. Bankruptcy proceedings are determining amounts of restitution. For many, a settlement has been worked out giving them a limited cash payment together with a claim against American Beef's profits for the next several years until the balance of their claim is paid. Criminal charges were filed against a number of company officials. This process is long, and it is painful. For some producers it has meant bankruptcy.

The effects of the American Beef disaster were not limited to Iowa and Nebraska. Losses were felt in 11 other States as follows: Texas, $3 million; Colorado, $2.5 million; Oklahoma, $1.2 million; Kansas, $0.9 million; South Dakota, $0.5 million; Missouri, $0.3 million; Wyoming, $0.2 million; Minnesota, $56,000; New Mexico, $32,000; Indiana, $27,000; and California, $21,000.

Livestock producers and farmers have learned to live with natural disasters. After all, the weather is something you can only pray about and put up with.

But I do not believe that livestock producers should have to bear the full risk of the mismanagement, the negligence, or the fraud of any packing company they have sold livestock to for cash in good faith. For that is what happened, Mr. President. American Beef had pledged the carcasses and accounts receivable it held to bankers and mortgage firms, many of whom were paid in full—ahead of unpaid livestock sellers.

The circumstances which permit this kind of thing to happen are a fairly recent development. When packers bought most of their livestock at stockyards—as they did until the 1950's—prompt payment rules were rigidly enforced. With the current trend toward packers making direct purchases from producers and feeders, packers have been more and more in a position to shift the risk of financial failure to producers. Under the current Packers and Stockyards Act, those provisions which assure producers of being paid are not enforceable with respect to direct sales from feeders and producers to packers.

H.R. 8410 would correct this situation by amending the Packers and Stockyards Act to provide that producers be paid promptly by packers for their livestock; that meat and other accounts receivable be held in trust for the unpaid sellers of livestock in the event of financial failure or bankruptcy; and that packers be bonded.

Producers and farmers have the right by law to reclaim items sold to a bankrupt party. But when a livestock producer sells to a packer, it is often impossible for him to reclaim his livestock. In the 5 to 7 days before a bad check bounces, the producer's steer is a steak on a dinner table, or a McDonald's hamburger. So, in order to prevent a packer from pledging carcasses or payables derived from the livestock transferred by an unpaid livestock seller, the "constructive trust" was designed very much along the lines of a mechanic's lien. This has the effect of making a widely used legal protection practical and available to livestock producers and feeders—a protection they badly need.

The bill also provides authority for the Secretary of Agriculture to require that any packer with annual livestock purchases greater than $500,000 post a reasonable bond. And, the prompt pay provision requires packers, market agencies, and dealers purchasing livestock to deliver to the seller or his agent at the point of transfer of possession of the animals—by check or wire transfer of funds to the seller's account—the full amount of the purchase price before the close of the next business day, unless otherwise agreed in writing.

However, if the seller or his duly authorized agent is not present to receive payment at the point of transfer of possession, the packer, market agency, or dealer will wire transfer or place a check in the U.S. mail for the full amount of the purchase price by the close of the next business day. Any delay or attempt

to delay payment would constitute an unfair practice in violation of the Packers and Stockyards Act.

Mr. President, this provision says that by the close of the following business day after sale and transfer of possession of livestock, the buyer must pay the seller. He can do that three ways:

First. Deliver his check to the point of transfer of possession.

Second. Wire transfer the funds to the seller's account.

Third. Or, if the seller or his authorized agent is not present at the point of transfer to receive the buyer's check, the buyer can mail the check.

If the buyer has a strong preference for one method of payment over another, he can request the seller for permission to use that method. For example, if the seller agrees in writing, the buyer can mail his check to the seller.

Mr. President, a number of packers have been concerned that they might be required to carry their checks repeatedly to the point of transfer in order to establish whether or not sellers are "present to receive" payment. Such an interpretation would be unreasonable. A packer who has made no other arrangement with the seller and who expects to physically deliver his check to the point of transfer would be expected to make but one such delivery. After that he would be free to mail his check. Of course, that delivery would be required to be during normal business hours, and before the close of the next business day following transfer of the livestock.

In addition to the three major provisions I have just mentioned, the bill provides for:

First. The inclusion of wholesale brokers, dealers, and distributors marketing meats, meat food products, or livestock products under regulation as packers under provisions of the act, except where the Secretary determines such inclusion is not necessary to the purposes of the act; and includes under the jurisdiction of the Secretary all transactions of packers who operate in commerce.

Second. Authority for the Secretary to order packers to cease and desist from operating while insolvent except under such conditions as he may prescribe.

Third. Specific authority for the Secretary to request the Attorney General to seek a temporary injunction or restraining order in Federal district court, pending administrative action, to prevent irreparable injury to producers or members of the industry which would result if persons subject to the Packers and Stockyards Act were permitted to operate while insolvent or otherwise in violation of the act.

Fourth. Authority to file in court a private cause of action seeking damages against any person subject to the Packers and Stockyards Act arising out of a violation of any provision of the act, or of any order of the Secretary under the act, relating to purchase, sale, or handling of livestock.

Fifth. That the packer bonding and prompt payment provisions would preempt State laws on the same subject. However, a State would not be preempted from enforcing its prompt payment requirements applicable to packers purchasing livestock at a stockyard, if the State requirement is not in conflict with the applicable act or regulations.

Mr. President, I requested that the Packer's and Stockyards Administration, USA, describe how they would interpret this prompt pay requirement in this bill, and their response is reflected in my earlier comment.

Mr. President, this is a strong bill, well designed to correct an obvious inequity livestock sellers have suffered in recent years. However, in some regards the bill is no stronger than a number of State laws. Texas, Kansas, and Oklahoma, for example, require payment for livestock on the day they are delivered. Twenty-six States have bonding requirements. Nineteen States have prompt pay requirements. H.R. 8410 would pre-empt virtually all of these State requirements so that packers would face uniform requirements from State to State.

It is a sound bill, virtually identical to H.R. 8410, the bill already passed by the House. It has bipartisan support, including endorsement of the administration. Farm groups are strong supporters, including the American National Cattlemen's Association, the National Livestock Feeders Association, the American Farm Bureau Federation, the Independent Bankers of America, the National Grange, the Farmers Union and National Farmers Organization. I strongly recommend to my colleagues the passage of H.R. 8410.

Mr. President, I ask unanimous consent to have printed in the RECORD additional materials from the Department of Agriculture with regard to this matter.

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

DEPARTMENT OF AGRICULTURE,
PACKERS AND STOCKYARDS ADMINISTRATION,
Washington, D.C., June 9, 1976.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: We are pleased to respond to your request for our interpretation of the following sections of H.R. 8410, currently under consideration by the Senate.

(1) How will the words "demand" and "receive" as used in proposed section 409(a) (page 7, line 2 of H.R. 8410) differ in effect upon the payment practices to be followed by the purchaser?

If the term "demand" is used and the seller or his agent is present at the point of transfer of possession of the livestock, the seller or his agent would be required to make a demand that the purchaser make payment at the point of transfer of possession if the obligation is to be placed on the purchaser to make payment at that point. If a demand is not made, the purchaser could pay by wire transfer or by depositing his check in the mail any time before the close of the business day following the day of the transfer of possession or determination of the purchase price.

If the term "receive" is used and the seller or his agent is present at the point of transfer of possession of the livestock, the purchaser would be under a statutory obligation to make payment at that point by the close of the next business day and could pay by wire transfer or mailed check only upon written agreement of the seller or his agent. However, as a practical matter since the packer and the seller will probably discuss payment for the livestock in most instances, few problems are likely to arise with respect to the place and type of payment.

(2) How will the trust requirement in proposed section 206(b) operate? How long does the trust last?

The trust would be a continuing one lasting as long as the packer continues to purchase livestock in cash transactions and there are unpaid cash sellers. It would automatically attach to all of the livestock, inventories, receivables, and proceeds therefrom held by the packer to the extent of the amount owed the unpaid cash sellers. As additional livestock are purchased in cash sales the interests of those sellers would be automatically covered by the trust and as these are paid their interests would be removed from coverage by the trust.

We foresee no necessity for a determination of the interest of the cash sellers in the trust except in situations, such as bankruptcy where the interests of the unpaid sellers must be specifically ascertained. The amount of the interest of the unpaid sellers in the trust could be determined by an audit of the records the packers are required by the Act to keep. Although all of the livestock purchased in cash sales and in inventories, receivables and proceeds derived therefrom and the livestock purchased in other sales and the inventories derived therefrom would be commingled, this would not present serious problems since an audit would reveal the extent of the interest of the unpaid cash sellers in such commingled assets.

(3) How would the exclusion of certain wholesale food brokers, dealers and distributors by the Department as authorized by proposed section 201(c) be carried out? What effect does inclusion under the Act of wholesale brokers, dealers and distributors of meat have upon their operations?

Proposed section 201(c) would except those general wholesale food brokers, dealers or distributors in instances where the Secretary determines that their inclusion as packers is not necessary to carry out the purposes of the Act. The Department would attempt to make this determination as soon as practical. At this time, however, the Department has limited information with respect to the persons who are engaged in this business, and their relationships with other packers or with other wholesale brokers, dealers or distributors.

A definite trend is developing toward the marketing of meat by packers through "boxed" or other containerized procedures. This will permit wholesale food brokers, dealers and distributors, not involved in the preparation of meat for sale, to exercise a greater role in the marketing of meat than in the past. We do not now have extensive information as to the nature of practices engaged in by many of these firms, nor the extent of problems in connection with "boxed" beef and similar marketing procedures. Therefore, a fairly extensive examination of this segment of the wholesale meat business will be required to determine who may be exempted without impairing the ability of the Department to carry out the purposes of the Act.

We do not anticipate any serious regulatory burden would be imposed upon any wholesale meat broker, dealer or distributor. These persons have not been made subject to either the bonding, the trust or payment provisions in this bill, but would have to conduct their operations in a fair, competitive manner. We would make such investigations as necessary to eliminate unfair or competitive practices which would adversely affect the marketing of meat and meat food products at wholesale. Of course, such jurisdic-

tion as the Department would exercise in this area would be limited to the marketing of meat, meat food products and livestock products in unmanufactured form. Transactions with respect to other food products are currently under the jurisdiction of the Federal Trade Commission and are not, and would not be, subject to the jurisdiction of the Secretary.

If you should desire additional information concerning this matter, please advise.

Sincerely,

MARVIN L. MCLAIN,
Administrator.

DEPARTMENT OF AGRICULTURE,
PACKERS AND STOCKYARDS ADMINISTRATION,
Washington, D.C., June 11, 1976.

Hon. DICK CLARK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CLARK: We are pleased to furnish the enclosed information you requested concerning several provisions of H.R. 8410 currently under consideration in the Senate.

If you should desire additional information concerning this matter, we shall be pleased to furnish it upon request.

Sincerely,

MARVIN L. MCLAIN,
Administrator.

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1. Section 8 of the bill impresses a trust on all "livestock purchased by a packer in cash sales and all inventories of or receivables or proceeds from meat, meat food products, or livestock derived therefrom" for the benefit of all unpaid cash sellers until full payment has been made. It was not intended by the Committee that any on-going segregation of funds (custodial account) would be required by this provision. Do you see any necessity for segregation of such current assets?

Answer: No. There would be no need for any special segregation of such current assets, since under the bill the trust attaches on such livestock, inventories, receivables and proceeds to the extent of the amount owed the unpaid cash sellers and there would be no necessity for a determination of the amount of that trust except in situations, such as bankruptcy, where the interests of various claimants must be specifically determined. The amount of the trust could be determined from the packer's records at any time by an audit. Although the livestock, inventories, receivables and proceeds derived from the livestock purchased by the packer in cash sales would be commingled with all other assets in the normal operations of the business, such an audit would reveal the extent of the interest of the unpaid cash sellers in such commingled assets and therefore subject to the trust.

2. The Committee did not intend that the trust provisions, section 8, extend to the meats or meat food products purchased (and held) by retailers from the packer in good faith transactions; but rather, that the trust would attach to the accounts receivable, cash (or equivalent) or proceeds received by the packer in payment for such products. For purposes of conveying the practical effects of such a procedure to the Membership on the Floor, could you explain how this would work and whether or not you believe this would work a hardship on the packers or the retail purchasers?

Answer: The Committee Report 94–1043 states at page 7 that: "The trust does not extend to livestock, meats, etc., which have been purchased from the packer in good faith transactions." Upon the purchase by a retailer in the ordinary course of his business, the packer would then have an account receivable from the retailer for the purchase price of the product and that account receivable would be subject to the trust. When the retailer pays the purchase price, the trust would then attach to that payment. In the event of bankruptcy of the packer after the purchase in the ordinary course of business and prior to payment by the retailer to the packer, the relationship of the retailer and the packer would not change in any respect by virtue of the trust. The retailer would still owe the packer the purchase price of the product and when he pays for the product, the payment would be subject to the trust to the extent of the amount owed to the unpaid cash sellers of the livestock. The packer or the livestock seller would not be adversely affected by the fact that the trust would be applicable only with respect to the meat, meat food products, and livestock products in the possession of the packer, and then to the packer's account receivable for the sale of the products, and then to the proceeds paid by the retailer to the packer to satisfy the account receivable.

3. The Committee intended that the trust established by section 8 be a constructive statutory trust arising by operation of law and that it need not specifically identify the livestock, accounts receivable, meat or meat products to which it attaches until the event (insolvency or bankruptcy) occurs which, as a result of its occurrence (marshalling of assets, etc.), results in the identification of certain assets to which it has attached.

As a practical matter, based on the experience of the Packers and Stockyards Administration, should such identification of assets to which the trust would attach, in the event of bankruptcy, cause any difficulty in the administration of this program as outlined above?

Answer: No. There should be no problem encountered in identifying the livestock, accounts receivable, and proceeds from the meat, meat food products, or livestock products subject to the trust for the unpaid cash sellers of the livestock. Under section 401 of the Packers and Stockyards Act, every packer is required to keep such accounts, records and memoranda as fully and correctly disclose all transactions involved in his business. Insofar as we are aware, every packer keeps books and records from which the amount of the inventories, receivables and proceeds and the amount owed to each unpaid cash seller of the livestock to the packer can be determined by an audit of those books and records. Upon bankruptcy, for example, an audit would reveal the amount of the commingled inventories, accounts receivable and proceeds, the amount owed to the unpaid cash sellers of livestock to the packer, and thus the extent of the application of the trust. The audit would reveal the amount which must be paid to the unpaid cash sellers before the commingled inventories, accounts receivable, and proceeds are freed from the trust. Accordingly, we foresee no problem in the administration of this program as contemplated by the Committee.

4. The Committee intended that existing secured credit transactions entered into between packers and their banks or other financing agents become subject to the trust provisions of this bill upon the date of enactment. Could the Packers and Stockyards Administration generally give publicity to the prospective enactment of this legislation so that packers would be on notice of its provisions? Further, do you believe such an effective date provision would work a hardship on the industry?

Answer: Yes. The Packers and Stockyards Administration would be glad to cooperate with the Committee in advising affected packers of action by the Congress with respect to this provision. It is our understanding that the various packer associations have been keeping currently abreast of developments in connection with the bill and they are no doubt keeping their membership currently advised. Also, various financial organizations have been following the developments in connection with the trust provisions. Accordingly, we would anticipate that all affected packers will receive timely notice of action by the Congress with respect to the trust provision and we would not anticipate any hardship on the industry in this regard.

5. Based on your experience with packers and their credit arrangements, need a "floating lien creditor" arrangement between a packer and his banker or other financing entity be in any way adversely affected by a trust provision such as that contained in Section 8? Explain.

Answer: The Section 8 trust provision would have an effect upon the credit arrangements between a packer and his banker or other financial entity since the lender would no longer have the livestock of the unpaid cash sellers and the products therefrom available as a source of additional security for his loan to the packer, until the livestock sellers have been paid. However, we would not anticipate that this result will have any adverse long term impact upon the credit arrangements of the packing industry.

6. Based on information you provided me, the states of Texas, Oklahoma and Oregon have laws relating to liens on livestock and products therefrom. A suggestion has been made that the Congress pass a bill containing a provision establishing a lien on behalf of the sellers of livestock. Based on your experience, would the cost of a trust provision such as we have in H.R. 8410 cost any more than a federal lien provision?

Answer: Currently three states—Texas, Oklahoma and Oregon—have laws relating to liens on livestock and products therefrom. There is also legislation pending in the states of Florida and California which would provide for liens on livestock sold to packers until payment is received by the seller.

There would not appear to be any material difference in the cost between the trust provision contained in this bill and a federal lien provision. The trust provision is largely self enforcing and would only become effective in the event of bankruptcy or inability of the packer to pay.

7. How many states currently have bonding requirements for packers? (Please provide a list by state.)

Answer: There are currently 26 states with bonding requirements for packers. These requirements vary widely from $1,000 to two full days' average purchases. A list of these states with the amount of bond required is attached.

STATES HAVING LAWS REQUIRING BONDS OF PACKERS AS OF MAY 3, 1976

States and bond requirements:

Alabama, $10,000 to $50,000+10% of excess over $50,000.

California, $4,000 (Required only of packers buying direct from producers).

Colorado, $2,000 to $100,000.

Florida, $1,000 to $50,000.

Georgia, $1,000 to $50,000 (Bond to be not less than 1/25 of total annual purchases with maximum of $50,000. Ga. Code requires bonds only of dealers and packers purchasing at sales establishments, but bond form used does not restrict coverage).

Illinois, $6,000 to $50,000+15% of excess.

Indiana, $1,000 to $50,000+10% (Required only of packers operating buying stations).

Iowa, $5,000/up—no maximum (Two full days purchases).

Kentucky, $2,000 to $10,000 (Required only of packers owning buying stations or buying at plant).

Minnesota, $5,000/up.

Mississippi, $10,000 (Required only of packers with buying facilities).

Missouri, $2,000 (Required of packers w/buying station or buying at plant).

Montana, $5,000/up.

Nebraska, $5,000/up (Bond required of packers buying 500 animal units annually other than through bonded selling agencies) (Two full days purchases).

Nevada, $5,000 to $100,000.

New Mexico, $1,000.

New York, $1,000 to $200,000.

North Dakota, $5,000 to $50,000+10%.

Ohio, $10,000/up (Average of high ten days' business applies only to packers purchasing at least 250 cattle or 500 head small stock).

Orgeon, $20,000/up—no maximum (Two full days purchases).

Rhode Island, $10,000.

South Carolina, $3,000 to $25,000 (Satisfactory financial statement acceptable).

South Dakota, $5,000 to $50,000+10%.

Utah, $5,000 to $25,000+10%, maximum $100,000.

Vermont, $5,000 to $150,000.

Washington, $7,500/up—no minimum.

8. How many states currently have prompt payment statutes for packers? (Please provide listing.)

Answer: Nineteen states have prompt payment statutes of some kind which affect packer payment practices. A list of these states is attached.

STATES HAVING LIVESTOCK PROMPT LAWS FOR PACKERS MAY 3, 1976

State and requirement:

Alabama: Pay before close of next business day following purchase. Auction operator responsible for collecting from packers.

California: Shall pay within 30 days from delivery or as specified in contract.

Colorado: Pay within thirty days or time specified in contract.

Florida: Auction operator responsible for collecting for livestock sold to packers on date of sale, payment may be made by cash, check or draft.

Georgia: Auction operator responsible for collecting for livestock sold to packers on date of sale, payment may be by cash, check or draft.

Illinois: Pay within 24 hours from time of purchase or within time agreed upon by seller and buyer.

Iowa: Pay within 24 hours or upon determination of purchase price. If sold on grade and yield, must pay 80% at time of delivery and remainder by end of next business day after determining grade and yield and full purchase price.

Kansas: Pay by close of next business day following purchase unless otherwise agreed upon by seller and buyer.

Nebraska: Pay within 24 hours following purchase or within 24 hours from time determination of purchase price whichever may occur last.

Nevada: Shall pay within 30 days from delivery or as specified in contract.

New York: Pay within 15 days following date of purchase.

North Carolina: Auction operator responsible for collecting for livestock sold to packers on date of sale.

Oklahoma: Payment due on day ownership of livestock is transferred. If after banking hours due by close of next business day following transfer of ownership. If sold on grade and yield, payment due on day grade and yield is determined.

Oregon: Payment due not later than the second business day after the day the packer takes delivery. If sale is made under contract payment is due within time specified in contract.

South Carolina: Auction operator responsible for collecting for livestock sold to packers on date of sale.

South Dakota: Grade and yield purchases only covered. 80 percent due at time of sale or delivery, balance due when grade and yield has been determined, 24 hours.

Texas: Payment due on day of transfer or possession occurs. If on grade and yield, payment is due not later than the close of the next business day following determination of grade and yield.

Vermont: Payment due 72 hours following time of purchase.

Washington: Payment due within thirty days from date of purchase unless otherwise specified in contract.

9. An allegation has been made that the cost of H.R. 8410's bonding (2¢) prompt payment (25¢), and trust provisions (26.6¢) will cost "53.6 cents per head" or about $50 million to the meat industry and $100 million to the consumer. Please examine and comment on this claim based on your experience with the industry.

Answer: It is difficult to estimate the actual cost of H.R. 8410 to the meat packing industry. If all packers slaughtering more than $500,000 worth of livestock are bonded for their livestock purchases, the cost would amount to roughly 2¢ per head for cattle and less for small stock. The cost for delivery of checks would be affected by whether the packer purchases his livestock on a grade and yield basis, at public auction and terminal markets, at its own buying stations or packing plant, or takes title at the feedlot. The contention that the prompt pay provision of this bill would cost packers 25 cents per head or $50 million for a courier service to handle checks has, however, no basis in fact. Actually, payment for most of the approximately 130 million head of livestock purchased for slaughter by packers would not require any delivery services. In most instances slaughter livestock are purchased by packer buyers at their packing plants or buying stations or at terminal or auction markets and feedlots with the weight and price known at time of sale. This permits payment to be made by the buyer or his representative at the time of purchase. Even range lambs are sorted and weighed by the packer buyer so later delivery of a check by courier would for the most part be unnecessary. In fact, the only large number of livestock that might require some extra expense for delivery of payment by check would be those fat cattle purchased at the approximately 700 largest feedlots by packers by telephone or for later delivery when their buyers would not be present.

The actual number of such livestock is not known but would probably not exceed half of the 13 million head sold at these feedlots. This would represent a courier delivery cost at 25¢ a head of possibly $1 million to $2 million instead of the $50 million figure claimed by some in the meat packing industry. However, we have no basis for judgment as to the accuracy of the 25¢ per head cost.

The $100 million cost to consumers is even more difficult to pinpoint and may be as much exaggerated as the $50 million figure referred to above. Much depends on the effort by slaughterers to strengthen their financial condition by bringing new capital into their business. Certainly, if packers would be limited in their ability to borrow as much money as a result of the trust provision as some members of the packing industry indicate, the cost of interest is not likely to exceed its current cost. However, if additional funds should be required by packers in order to pay livestock producers more promptly, then some additional interest expense currently borne by producers should be expected to be paid by packers since the funds obtained from producers through delayed payment is not currently costing the packing industry any interest.

10. How many hogs, lambs, cattle and calves are sold each year? Of these sales, how many cash sales (livestock payable) are outstanding at any one time on the average? How many are for credit sales—if known?

Answer: During the year 1974, packers purchased for slaughter 36,800,000 cattle, 3 million calves, 81,800,000 hogs, and 8,800,000 sheep and lambs. The total value of this livestock was approximately $22 billion or about $85 million in purchases per day. We do not have statistics which would show the total amount of accounts payable for livestock owed by this industry at any one time, but it could range from several days purchases to a week or more. We know of no feeders, producers or farmers who intentionally extend credit in selling livestock to meat packers. All sales are intended to be cash sales.

11. Will a federal bonding requirement increase or decrease costs over those for state bonding? Explain. How about time and cost required by packers in complying with a variety of bonding (state) requirements?

Answer: The federal bonding requirement should decrease the cost of bonding for those operating under state bonds. Usually the cost per thousand for federal bonds is somewhat lower than for a state bond. Surety companies usually offer a lower rate for federal bonds because they know P&SA requires financial statements from persons bonded, audits firms in poor financial condition, and has been successful in getting many firms subject to the Act to obtain additional working capital. In addition, it would be more expensive for packers to comply with a number of varying state bonding requirements than to obtain a single federal bond. In addition to paying the higher bond premium, the packers would also have to file the necessary financial papers to obtain bonds under varying conditions and meet a variety of other state requirements.

12. How much bonding would American Beef Packers have carried had this bill been enacted into law in 1974? What proportion of unpaid seller claims would this have met?

Answer: If this bill had been enacted into law in 1974, American Beef Packers would have carried a bond in the amount of $6.6 million if the bond had been figured on the basis of two days' purchases. At the time ABP filed under Chapter XI of the bankruptcy laws, they owed $20.7 million for livestock. By selling plants and other property, approximately $11 million has been paid to livestock sellers. Approximately $9.7 million remains to be paid on livestock debts. A $6.6 million bond would represent approximately 30% of the original amount owed or approximately 68% of the remaining amount owed to livestock sellers.

13. How many slaughterers (packers) are there in the United States, and how many would be subject to this bill (giving effect to the $500,000 exemption)?

Answer: There are approximately 1,720 slaughterers doing business under federal meat inspection. Approximately 950 of these firms would be subject to the bonding provisions of the bill.

14. Please provide a current summary of failing packers or livestock firms who have gone out of business owing for livestock? How many failures have there been in recent months and where were they doing business?

Answer: During calendar year 1975, eleven meat packers, including American Beef Packers, discontinued business owing a total of $26.85 million for livestock. Since July 1975, there have been five packers discontinuing business owing $2.28 million for livestock and were located in the states of California (3), Florida (1), and Pennsylvania (1).

15. Do you have any information (or have you had complaints) about losses by packers because of payments to sellers who have not disclosed that their livestock was mortgaged? Is information on the frequency of these payments available anywhere that you know of (if you do not collect it)?

Answer: We do not have statistical information available which would indicate the amount of losses by packers as a result of dual payment because of sellers' failure to disclose mortgaged livestock. Very little evidence of serious losses experienced by packers has been brought to our attention, al-

though undoubtedly some losses have been incurred. We are not aware of any available source for this information.

16. How many states (of which you are aware) have legislation under consideration regarding bonding, prompt payment or liens on behalf of sellers of livestock?

Answer: Florida and California are currently considering revamping their state laws to strengthen the protection provided the livestock producers in selling to packers. A number of other states have indicated an interest in doing the same if federal legislation is not enacted. Undoubtedly, most states will hold back on legislation until the type and extent of federal legislation to be enacted is known.

Mr. CLARK. Mr. President, I yield the remainder of my time back to the chairman of the committee.

Mr. HUDDLESTON. Mr. President, I yield such time as he may desire to the Senator from Kansas.

Mr. DOLE. Mr. President, today we are considering legislation that will return to our livestock producers assurance that they will be paid for the livestock they sell to a packing company. Since 1958, 167 packaging companies have gone out of business owing farmers $45.4 million. Up until 1975, 164 firms went out of business owing a total of $21.07 million, averaging 9.6 firms owing $1.171 million per year.

In 1975, however, when only three packing firms went out of business, the total figure amounted to $24.3 million due to the extremely large bankruptcy of one firm: American Beef Packers—$20.7 million. Changes in the methods of paying farmers for their livestock in the past 10 years were one reason for a single financial disaster of this magnitude.

Ten years ago, most farmers were paid for their livestock at the stockyard or feedlot when the animals were loaded for shipment. Then, due to increased production through feedlots, the closing of several large packing plants, and the changes in processing and marketing, it became the practice for more livestock to be purchased directly from feedlots and shipped to distant packing plants. With this change, the practice of mailing checks to the producers became more prevalent. The resulting delay in the producers receiving their checks, coupled with the particular circumstances surrounding the American Beef Packers situation, resulted in about 1,000 livestock producers holding worthless checks amounting to $20.7 million.

This was the largest bankruptcy case in the packing industry history, and through the hearings conducted by the Senate Committee on Agriculture and Forestry, it became evident that there is no assurance that the situation could not occur again. It was felt by the committee that these producers were entitled to some protection against such a recurrence.

So today we consider H.R. 8410, commonly referred to as the Thone Packer-Bonding bill. It provides assurance to our livestock producers that they will be paid for the animals they sell.

Briefly the bill contains three major provisions:

Packers would be required to obtain a bond amounting to approximately the value of animals they purchase in an average 2-day period.

Packers would be required to deliver a check to the seller at the point of transfer of possession of the livestock or wire funds between banks by the close of business the following day. If the seller or his agent is not present to receive the check, the packer may mail the check to the seller.

In the event of bankruptcy, a temporary trust would be established from the inventories and receivables of a packer amounting to what is owed the unpaid sellers of livestock.

Perhaps the most important provision of the bill is the "trust" provision, since it will assure payment to the producer. The prompt payment provision will restore the former procedure of payment at the point of possession. If the seller or a designated representative is not present when the packer delivers the check, then the packer may deposit the check in the mail before the close of business the following day.

Mr. President, the farmers who produce the livestock from which we obtain the meat we eat are entitled to assurance of being paid. Therefore, I urge our colleagues to support this legislation.

I yield back the remainder of my time.

Mr. HUDDLESTON. Mr. President, the Senator from North Carolina had an amendment to offer.

Mr. DOLE. Mr. President, I have a technical amendment that I can offer at this time.

Mr. HUDDLESTON. I yield to the Senator from Kansas.

UP AMENDMENT NO. 58

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted Amendment No. 58.

On page 6, line 11, strike out the word "agent" and insert in lieu thereof the word "representative".

On page 6, line 17, strike out the word "agent" and insert in lieu thereof the word "representative".

On page 7, line 1, strike out the word "agent" and insert in lieu thereof the word "representative".

Mr. DOLE. Mr. President, this is a technical amendment that changes the term for designation of an agent to representative. There is some fear that agent could be confused with market agent and therefore, to clarify this, I offer the amendment.

This has been discussed with the chairman of the subcommittee, the Senator from Kentucky (Mr. HUDDLESTON), and I think there is no objection to the amendment.

Mr. HUDDLESTON. There is no objection to the amendment. It is a technical clarification and I move that it be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

Mr. HELMS. I thank the able Senator.

AMENDMENT NO. 1786

Mr. President, I have an amendment at the desk, which I call up, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes amendment number 1786.

Mr. HELMS. 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:

Beginning on page 6, line 7, strike out all drawn through page 7, line 9, and insert in lieu thereof:

SEC. 409. (a) Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver a check, wire transfer, or deposit a check for delivery by United States mail, to the seller or his duly authorized agent for the full amount of the purchase price: *Provided, however,* That in the case of a purchase on a carcass or "grade and yield", the purchaser shall make payment by delivery of a check, deposit of a check for delivery by United States mail, or wire transfer of funds to the seller's account for the full amount of the purchase price not later than the close of the first business day following determination of purchase price.

Mr. HELMS. Mr. President, I add my support to H.R. 8410, as reported by the Committee on Agriculture and Forestry. Many members of the committee are strongly persuaded that H.R. 8410 is much-needed legislation, and I agree. I agree that it is essential if the livestock producers of the country are to be able to continue to survive in the marketplace. This bill is considered to accomplish that objective. It will hopefully prevent any future recurrence of the tragedies that producers experienced following the American Beef Packers bankruptcy.

While I strongly support the bill, I am concerned that the prompt payment provision, section 7, may smack a bit of legislative overkill. I do not question the necessity for a prompt payment provision. However, I do believe that such a provision should be commercially feasible and effective. If a requirement places such a heavy burden on the packing industry as to conflict with normal and realistic commercial practices, applicable to all other businesses in this country, its effectiveness will be greatly diminished and it is not unrealistic to envision packers buying only from producers who would agree to other methods of payment.

Besides simply being burdensome, section 7 also seems to the Senator from North Carolina to be ambiguous. I take

a moment to explore the operation of this section. Packers, of course, are required to pay for livestock by the close of the business day following purchase and transfer of possession.

This can be accomplished either by actual physical delivery of a check for the full purchase price of the livestock at the point of transfer of possession or by wire transfer of funds to the seller's account for the full amount of the purchase price. Only, and I repeat, only, if the seller or his agent is not present to receive payment at the point of transfer of possession, can the seller pay by mailing a check.

This provision may seem advisable when it is read for the first time. It appears in fact to be almost innocuous. However, what this section is actually saying is that the packer must be prepared to pay the buyer when transfer of possession takes place, or at anytime from that time to the close of the following business day if the seller is present to receive payment at the point of transfer of possession.

This is why I raise the question, and this is the purpose of the amendment that I have called up.

This is an unnecessary burden, and could cause confusion and disruption in the normal daily business affairs of the purchasers business offices.

So, I think it is a very real question, Mr. President, as to whether there is any reason why this industry should be treated differently from all other businesses in this country.

The use of the mails is the commonly accepted means of forwarding payment.

At the same time, I am fully aware that in the past, transmittal of payment by mail has resulted in some packers being able to prolong payment periods and thereby extend their float time. The amendment which is now pending is very simple and it addresses this problem. It would allow a packer to satisfy the prompt payment requirement of the bill by any one of three payment methods.

The three methods are: First, actual delivery of the check; second, wire transfer; or third, deposit for delivery by U.S. mail. The buyer and seller would be free to mutually agree as to which of these payment methods would be utilized for the particular transaction. So long as payment is accomplished by the close of the next business day, the basic objective of section 7 is accomplished.

My amendment specifically allows the use of the mails as a payment method, on an equal footing with actual delivery and wire transfer. Some people would make the point that allowing the use of the mails in all cases undermines the entire prompt payment provision. These same folks will back up their position by stating that a packer can postmark letters on his postage meter and then wait several days to mail the letter. I simply cannot believe that such actions would ever involve more than a miniscule percentage of packers. Furthermore, such delays of payment would constitute unfair practices under the act, and just would not be legal.

There has been only one real objection raised to this amendment. The objection is based on the fact that a producer has a right to be paid in full when he sells livestock. This amendment does not alter that right, nor does it in any way interfere with the private right of contract. If both parties agree, the check will be delivered. All the amendment says is that mail or wire transfer are also accepted methods.

It is not proper, or desirable, for the Federal Government to superimpose its judgment on what methods should be used to effectuate payment between a buyer and a seller. The only exception to this would be where the public interest clearly demands otherwise. My amendment would not allow the use of drafts, since drafts are largely worthless and have resulted in considerable harm to producers. Freedom of contract is an essential principle of our democratic system, and this amendment preserves that principle.

We want to protect producers. The use of the mails protects the producer. If the purchaser sends an insufficient funds check, he would be in violation of the prompt payment requirement, since the purpose or result of such action would be to extend the normal payment period.

By depositing the check in the mail, the purchaser is obligating his funds. The seller is still able to preserve his right under the trust established under section 8 of the bill, if he is unpaid.

My point is simply that my amendment would accomplish the purpose of the prompt payment provision, without imposing an unnecessary burden on purchasers, and without adversely affecting sellers. I urge my colleagues to vote in favor of this amendment.

Mr. President, I do not think enough Senators are in the Chamber, but I ask for the yeas and nays, mainly so that the cloakroom can inform enough Senators to be here for a sufficient second.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DOLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HELMS. I yield.

Mr. DOLE. Mr. President, I ask unanimous consent that Robert Sindt, a member of Senator's HRUSKA's staff, have the privilege of the floor during the debate and vote on H.R. 8410.

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

Mr. HELMS. Mr. President, I ask for the yeas and nays,

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

The yeas and nays were ordered.

AUTHORIZATION FOR THE COMMITTEE ON COMMERCE TO MEET TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Commerce be allowed to meet this afternoon for approximately 15 minutes, to report an important bill, following any rollcall vote, which would be the rollcall vote on the Helms amendment.

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

PROTECTION OF LIVESTOCK PRODUCERS

The Senate continued with the consideration of the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes.

Mr. HUDDLESTON. Mr. President, I commend the distinguished Senator from North Carolina for his effort and time he has devoted to this measure and his sincere interest in attempting to resolve the problems that producers and feeders of livestock have been faced with throughout the years.

However, I must oppose the amendment that is being offered by the Senator from North Carolina, basically on two points.

First, it takes from the seller the option for making the decision as to how payment is made and transfers it to the buyer.

Second, the amendment offered by the Senator from North Carolina loosens up the process in favor of the purchaser. Some possible abuses that could occur are a purchaser could predate his check, predate his postal meter, and seemingly qualify under the provision of the bill, yet delay for several days or weeks payments to purchasers.

Mr. HELMS. Mr. President, will the Senator yield on that point?

Mr. HUDDLESTON. I yield.

Mr. HELMS. The Senator will agree that the bill otherwise provides that this would be a violation of the law?

Mr. HUDDLESTON. That is correct.

Mr. HELMS. I thank the Senator.

Mr. HUDDLESTON. My position is that the amendment should not be agreed to.

I yield at this time to the Senator from Iowa (Mr. CLARK) for whatever comments he has on this matter.

Mr. CLARK. Mr. President, I oppose this amendment.

The prompt-pay section is one of the three basic foundations of the bill. This section, along with the trust section and the bonding section provides a unified set of basic protections needed by livestock producers to insure payment for livestock.

The purpose of the amendment offered by my good friend, the Senator from North Carolina, is to permit packers to mail checks in payment for livestock, and I agree with that purpose. In fact, it is permitted by the language of H.R. 8410 as it stands, and as he has explained it.

H.R. 8410 requires that by the close of the following business day after sale and transfer of possession of livestock, the buyer must pay the seller. He can do that three ways:

First, deliver his check to the point of transfer of possession.

Second, wire transfer the funds to the seller's account.

Third, or, if the seller or his authorized agent is not present at the point of transfer to receive the buyer's check, the buyer can mail the check.

If the buyer has a strong preference for one method of payment over another, he can request the seller for permission to use that method. For example, if the seller agrees in writing, the buyer can mail his check to the seller.

I oppose the proposed amendment because it would take the option of how payment should be made away from the seller and give it to the packer. The proposed amendment was justified on the basis that payment by mail is normal business practice. In fact, in those major livestock producing States—including Kansas, Texas, and Oklahoma—which now require payment the same day the livestock are transferred, payment by mail is not a normal business practice. H.R. 8410 would allow packers more flexibility than they now have in those States. The prompt-pay provisions in those States are working well. There is no reason to believe that H.R. 8410 would impose an undue hardship on packers elsewhere.

One significant reason a number of States have prompt-pay laws that do not permit a packer to mail checks is that this practice was seriously abused, as the Senator from Kentucky said, surely, the excuse "the check is in the mail" must be one of the oldest and best ways to delay payment. Packers have been guilty of mailing checks from very distant points to gain an extra day or two. The fact is that a number of States found that the practice was so susceptible to abuse that they took steps to restrict the circumstances in which it can be used. Mr. President I do not believe we should pass a bill today that leaves producers with less effective protection than they now have.

An additional concern has been raised by the Senator from North Carolina about this section. It is that a packer might be required to carry his check repeatedly to the point of transfer in order to establish whether or not the seller was "present to receive" payment. Such an interpretation would be unreasonable and I would not support the language of this section if I believed such a requirement were implied.

A packer who has made no other arrangement with the seller and who expects to physically deliver his check to the point of transfer would be expected to make but one such delivery. After that he would be free to mail his check, of course, that delivery would be required to be during normal business hours, and before the close of the next business day following transfer of the livestock.

I urge my colleagues to vote to reject this amendment.

Mr. HELMS. Mr. President, the statement by my friend, the able Senator from Iowa, is one with which there can be very little quarrel. In fact, I am delighted that he made the legislative history he did as to the intent of this legislation. That will be exceedingly helpful.

My problem, and my only problem, with the bill is the question of unnecessary intervention of the Federal Government into a normal commercial business process.

I say to the Senator from Iowa, the Senator from Kentucky, the Senator from Kansas, and all other Senators that if this amendment is accepted and if there is thereafter a practice of abusing the intent to assure prompt payment, I will not merely join the Senator from Iowa but I will take the lead in coming back to the Senate and saying, "Let us impose this sort of absolute requirement," because the Senator's motivations and my motivations are the same. We both want to see the producers protected, and I am sure that neither of us wants to impose unnecessary and unwarranted Federal controls on what should be responsible free enterprise.

Without question, producers should get a fair deal. However, I believe that "prompt payment" can and should be defined as payment by mail the following day. If the purchasers violate the law—I am speaking of packers—and engage in practices to extend delay payment; if they play around the float and say "the check is in the mail," as the Senator mentioned, that would be both reprehensible and unlawful, and it should not be allowed. But I think we should test the situation and give the packers the presumption of good faith and see how it works out.

I say to all Senators that if it does not work out, if the packers do not prove to merit the presumption of good faith, I will be on the floor of this Senate leading the effort to apply whatever requirements that may be necessary. But, before we go that far, I believe we should give the free enterprise system a chance to work without further Government intervention.

Mr. HUDDLESTON. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I reluctantly oppose the amendment.

I think the Senator from North Carolina has indicated that this bill may be tinged with overkill. That is a question the Senator from Kansas raised in the committee during the final markup of this legislation. Cattlemen throughout history have been seriously independent, and I think they have not compromised that independence in requesting legislation that goes this far. Certainly, protection is very much needed and very much desired. I trust that in the operation and implementation and administration of this legislation, we do not have overkill; that we do retain for cattlemen and others directly or indirectly involved in this great industry the fierce independence that they are proud of, and of which they have every right to be proud.

This amendment would nullify one of the three major provisions of this legislation by allowing the packer to mail a check to the seller of livestock. I can certainly understand his concern and rationale for the amendment, for this procedure was extensively researched and considered by the Agriculture and Forestry Committee. The Senator offered this amendment in the full committee markup and it was rejected. The reason for its rejection then still applies. The bill requires a check to be delivered to the seller at the point of transfer of possession of the livestock or wire transfer funds to the seller's account by the close of the following business day. His amendment would remove this requirement and simply allow the packer to mail the seller a check.

I would like to take a few minutes to clarify the situation surrounding the sale of livestock and the method by which the livestock are paid.

EXTENDS CASH SALES

I only point out the one argument, throughout history, as far as I can determine, the sale of livestock has been, and is still considered, by both parties, to be a cash sale.

A cash sale means that the seller receives payment when he delivers the livestock either to a packing house or to a truck for delivery. It is well to remember that farmers attempt to sell their livestock at just the right time—that is, at the time when they will yield the maximum quantity and quality of meat with a minimum of cost for feed. At that time, he must sell or his returns start diminishing. He only has a limited number of packers available to him as purchasers, and therefore, is at their mercy to certain terms.

MAIL DELAYS PAYMENT

Because of this situation in recent years, packers have commenced mailing checks to sellers which take several days to arrive and to clear the bank, 3 to 5 days can hardly be considered a cash sale and with the mail service being what it is today, it may be longer than 3 or 5 days. That is not the fault of either party.

This extended interpretation of "cash sale," its manipulation by using distant banks, coupled with other particular circumstances surrounding the American beef packers bankruptcy, caused nearly 1,000 farmers to hold worthless checks amounting to over $20 million last year.

Because of this, several States, including my State of Kansas and a number of others, have passed laws requiring prompt payment of the packer to a seller, in Kansas, packers are required to deliver a check to the seller by the close of business the same day of transfer of possession. This law has been operating for a year now with no violations.

SHIFTS FINANCIAL COST TO FARMER

Second, another factor in opposition to this amendment, is that when the farmer has been forced from a cash position during this extended period, he must pay interest on his borrowed funds. In some businesses, 3 to 5 days to receive cash payment may be considered an accepted and normal practice, but in the livestock producing business, it is not, 3 to 5 days additional interest on hundreds of thousands of dollars a year can make the difference between profit and losses in some cases.

PROMPT PAYMENT NOT ENFORCED

A final point is that the present regulations of the packers and stockyards administration has had in force since 1964 a requirement that the seller of livestock be paid within 48 hours. P. & S. officials admit they have not tried to enforce this

regulation. This amendment would remove the provisions presently in the bill that mandate compliance with current regulations.

Mr. President, if we expect to continue to enjoy an adequate and reasonably priced supply of meat and meat products, we need to give the farmers the assurance contained in the bill as reported from the Agriculture Committee and I, therefore, urge my colleagues to oppose the amendment.

I believe that if we look at the history of prompt payment and we look at the Packers and Stockyards Act—and we had P. & S. officials admit that they had not tried to enforce the regulation—and we balance the equities, I think we must come down on the side of protecting the cattlemen and protecting this industry, not just for their sake but for the sake of consumers. Even beyond that, there is a provision on page 6 of this bill that I think will take care of most problems. In fact, I would predict that a pattern of negotiations and trading would develop, where they could agree in writing on any method of payment, whether it is to be mailed or paid on the site. I think this will eliminate many of the fears that the packers and others have. I think it will, in time, satisfy the very sincere objections raised by the distinguished Senator from North Carolina.

Mr. President, I ask unanimous consent that a copy of the Kansas law be printed in the RECORD at this point.

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

HOUSE BILL NO. 2513

An act relating to payment for livestock purchased for slaughter

Be it enacted by the Legislature of the State of Kansas

Section 1. As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them in this section:

(a) "Livestock" means cattle, hogs or sheep;

(b) "slaughter" means killing livestock with the intent to process and distribute the meat and by-products of such livestock, regardless of the period of time elapsing between the purchase and the killing of such livestock;

(c) "person" means any individual, firm, partnership, corporation or other organization or business entity;

(d) "payment by check" means the actual delivery of the check to the seller or his representative at the location where the transfer of ownership is accompilshed. In the case of "grade and yield" selling, "payment by check" means making the check available at the packing plant, subject to the instructions of the seller or his representative;

(e) "wire transfer" means any telephonic, telegraphic, electronic or similar communication between the bank of the purchaser and the bank of the seller which results in the transfer of funds or credits of the purchaser to an account of the seller.

SEC. 2. (a) Unless otherwise agreed to in writing between the owner and the purchaser or their respective agent or representative for each transaction, it shall be unlawful for any person who purchases livestock for slaughter, whether acting individually or as an agent or representative of another, to fail or refuse to make payment by check or wire transfer of funds to the owner of such livestock, representative, agent or assignee, for such livestock on the business day within which the ownership of said livestock is transferred within the state of Kansas, except that if the transfer is accomplished after normal banking hours said payment shall be made in the manner herein provided not later than the close of the first business day following the transfer of ownership. For the purposes of this section, where livestock is sold and purchased on a "grade and yield" basis, the transfer of ownership shall be deemed to have occurred on the day when the grade and yield is determined.

(b) Whenever payment for livestock purchased for slaughter is made by check, such check shall be drawn on a banking institution within the same federal reserve district in which the transaction takes place, unless otherwise agreed to in writing between the owner and the purchaser or their respective agent or representative.

(c) Any person violating any of the provisions of this section shall be deemed guilty of a class B misdemeanor.

SEC. 3. This act shall take effect and be in force from and after its publication in the statute book.

Mr. CURTIS. Will the Senator yield 5 minutes?

Mr. DOLE. I yield to the Senator from Nebraska 5 minutes, or 10.

Mr. CURTIS. Mr. President, I am opposed to the amendment offered by my distinguished friend, the Senator from North Carolina.

My objection to this amendment is based on my long-time interest in livestock marketing and the opportunity I had during the past year to see and speak to livestock producers who sold their livestock to American Beef Packers. These producers had suffered. They suffered through actions over which they had no control. These producers sold their livestock in good faith with the expectation of being paid for their labors. It is only now, roughly 2 years after the bankruptcy petition was filed, that these producers have a glimmer of hope that they will be paid in full within the next 5 years. Two years is a long time to wait for payment, when you have ongoing obligations which must be paid. It would be a rare individual, indeed, who would be willing to forgo payment for so long.

In this amendment, we are being told that mailing a check is the "commercially accepted" way of doing business. This may be true of other businesses, but it is not now, and never has been, the accepted way of doing business in livestock. It has only been over the past few years that mailing checks has been accepted for paying for livestock, and even now it is far from being the universally accepted method of payment. Presently, we have 19 States that have prompt payment laws, many of which forbid the use of the mails.

What this amendment does in practice is eliminate the producer's bargaining position. It is not farfetched to imagine that if this amendment is passed, packers will, as a matter of course, pay by check through the mails. They would be foolish not to, since the use of the mails would insure them several days of additional float time beyond the normal time it takes for a check to clear for payment. This float time simply allows the packers to play with other people's money.

My good friend, the Senator from North Carolina, is unquestionably motivated by good intentions in offering his amendment. Unfortunately, these good intentions are misplaced. Probably no section of H.R. 8410 has been more misunderstood than the prompt payment provision.

Let me say right now that if the bill required the packer to make two trips to the producer in an attempt to deliver a check, I would be one of the first Senators urging that the section be amended. This would impose an unconscionable burden on livestock sales.

The point is very simple: The bill does not require two attempts at delivery.

I think it would be most instructive if I took a few minutes to analyze this provision. It requires that by the close of the following business day after sale and transfer of possession of livestock, the buyer must pay the seller. This can be satisfied in three ways:

First, the buyer can deliver the check at the point of transfer of possession if the seller or his agent is there to receive it; or

Second, the buyer can wire transfer the funds to the seller's account; or

Third, the buyer is free to mail the check if the seller or his agent is not present to receive payment at the point of transfer of possession.

In actual livestock sales practice, the feedlot management is in fact operating as a representative of the seller. After the sale, all the bill is requiring the packer to do is deliver the check to the feedlot office for the seller. If for some reason, no one is available at the office during normal business hours on the day of the sale or the following business day, the packer is free to mail the check. This is the way the industry presently operates. There is no need for a packer courier service or any requirement for the packer to make more than one attempt to deliver the check during the specified time period.

Actually, what the bill is doing is providing the packer with 2 days' flexibility in satisfying the prompt payment requirement. Three States at the present time—Texas, Kansas, and Oklahoma—already have State laws that require payment on the same day as transfer of possession. The prompt payment provision in H.R. 8410 is less stringent. Contrary to its detractors, the prompt payment provisions of Texas, Oklahoma, and Kansas are operating without complications. There is no reason to suppose that the prompt payment provision of H.R. 8410 will impose any undue hardship on packers, since it is merely a reflection of common practice in the major livestock producing States.

I find it extremely hard to believe that H.R. 8410 is imposing such an unconscionable burden on packers by its prompt payment provisions that the whole direction of that section must be removed. The parties are still free otherwise to agree to whatever method of payment will be employed and whether payment will or will not be accomplished by the close of the business day following the purchase of the livestock and transfer of possession thereof.

We are not tying anyone's hands. If

the parties are agreeable to another method of payment, so be it. You will never hear this Senator even remotely suggest that the Federal Government should interfere with the right of contract between two persons. However, this situation is far different from the Federal Government adding its support to the use of the mails in all livestock transactions. It should be quite obvious to all of us that the producer is usually at the mercy of the packer. With this amendment, producers would simply be relegated to accepting the packer's terms; payment through the mails, or not to sell his livestock to that packer. This is not really a viable choice, since when livestock are ready to go to market, they must either be sold or the producer starts losing money.

H.R. 8410 is a bill that has been carefully considered. Both Chambers of Congress have been working on livestock producer protection legislation for over a year. The bill as reported by the Committee on Agriculture and Forestry will work and will achieve its stated objectives. We are not interfering with contract rights and we should be very careful not to change any provision that will tip the scales in favor of either negotiating a contract. The Helms amendment undoubtedly tips the scales in favor of the packers. I urge my colleagues to vote to defeat the amendment.

Mr. President, I am not happy about opposing this amendment, but I must. I cannot condone any practice that would relieve the buyer of paying for his goods when he gets them. If they want to agree otherwise, the bill permits that. But suppose a 4–H Club boy or a Future Farmers of America young man comes in with one head of cattle or a load of them. He delivers it there. He cannot take it back home; it would take more feed and they will go out of condition. He delivers it to them. They have use of it. They sell it. It is part of their inventory. To say that he is not entitled to the money right now—it will help the packer if he has to pay right on the spot; he will not have half as much trouble getting a bond. In fact, practices require it.

If this amendment is adopted, what can he do? He can mail a check from Point Barrow, Alaska, to a farmer in Georgia and he has complied. That is the U.S. mail. I do not know how long it would take, but even if he mailed it right there, it gives somebody else a chance to use the seller's money—and for no particular purpose. These people should not be buying the livestock unless they can pay for it. That is the point of this legislation.

The purpose of the legislation is not to give them 2 or 3 days grace. I hope the amendment will be defeated.

This amendment, also, in a measure, is a vote of confidence for the Post Office Department. Mr. President, there is some mail sent to me that I never do get. Some of it is days late, months late.

So far as I am concerned, I want the farmers and feeders of the State of Nebraska and the 4–H Club boys and girs, when they deliver their livestock, to get a check for it right there. That is the issue.

Mr. President, I yield the floor.

Mr. HUDDLESTON. Mr. President, I yield back my time on the amendment.

Mr. HELMS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Utah (Mr. Moss) is necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), and the Senator from Nevada (Mr. LAXALT) are necessarily absent.

The result was announced—yeas 16, nays 78, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—16

Allen	Eagleton	Scott, William L
Baker	Helms	Stevens
Beall	Javits	Weicker
Brock	Mathias	Williams
Brooke	Percy	
Bumpers	Ribicoff	

NAYS—78

Abourezk	Gravel	Montoya
Bartlett	Hansen	Morgan
Bayh	Hart, Gary	Muskie
Bellmon	Hart, Philip A.	Nelson
Bentsen	Hartke	Nunn
Biden	Haskell	Packwood
Burdick	Hatfield	Pastore
Byrd, Harry F., Jr.	Hathaway	Pearson
	Hollings	Pell
Byrd, Robert C.	Hruska	Proxmire
Cannon	Huddleston	Randolph
Case	Humphrey	Roth
Chiles	Inouye	Schweiker
Church	Jackson	Scott, Hugh
Clark	Johnston	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stennis
Curtis	Long	Stevenson
Dole	Magnuson	Stone
Domenici	Mansfield	Taft
Durkin	McClellan	Talmadge
Eastland	McClure	Thurmond
Fannin	McGee	Tower
Fong	McGovern	Tunney
Ford	McIntyre	Young
Garn	Metcalf	
Glenn	Mondale	

NOT VOTING—6

Buckley	Griffin	Moss
Goldwater	Laxalt	Symington

So Mr. HELMS' amendment was rejected.

Mr. ALLEN. Mr. President, while I voted for the Helms amendment to H.R. 8410, an act to amend the Packers and Stockyards Act of 1976, I do not want my vote for the amendment to indicate that my support for H.R. 8410 is less than full and enthusiastic. I have supported the bill from its inception and gave it my full support in the Senate Agriculture and Forestry Committee. Since there is to be no rollcall vote on final passage of the bill, I make this statement to emphasize my full support of the bill.

Mr. HRUSKA. Mr. President, I rise in support of H.R. 8410, amending the Packers and Stockyards Act of 1921, to provide reasonable payment assurances to livestock producers upon sale of their animals.

This legislation is long overdue and badly needed. Since the inception of the Packers and Stockyards Act, the livestock marketing patterns of this country have changed drastically. No longer is the major portion of our livestock sold through large terminal markets. Now more than 80 percent of slaughter livestock is sold directly from the country to the packer. The Packers and Stockyards Act was mandated to supervise sales at terminal markets. The amendments of 1958 only extended this mandate to include the supervision of sales at country salebarns. Thus current law provides little, if any, protection to the vast majority of our livestock producers as they sell directly to the packer.

The need for reasonable payment protection for our livestock producers has been clearly demonstrated by the events of recent years. During the past 20 years, more than 170 packers have declared bankruptcy. This has resulted in more than $47 million in bad checks being held by our hard-working livestock producers which, in turn, has forced many of them to abandon farming and livestock operations or go into bankruptcy.

The effects of one recent packer bankruptcy alone is justification for this remedial legislation. Most of my colleagues are aware of the situation to which I refer. When American Beef Packers, Inc., declared bankruptcy last year, more than 950 producers in 13 States were left holding worthless checks totaling nearly $21 million. Losses in my home State of Nebraska totaled nearly $5.5 million. The dramatic consequences of the collapse of this major packing company are still being felt, not only by the unfortunate producers, but also by the banks, businesses, and communities with whom they trade. It is imperative that the Congress take action to insure that this situation does not recur. The best way to accomplish this is by passage of H.R. 8410.

Mr. President, it is not often that the senior Senator from Nebraska speaks in support of legislation which provides for further governmental regulation over business. My colleagues know that it is my belief that we already have too much governmental interference in the normal conduct of business. In this instance, however, the need for governmental protection of our livestock producers is clear.

The purpose of H.R. 8410 is not to place unreasonable constraints and regulations on the packing industry. Rather, it is a constructive reform that will make for a healthier packing and livestock industry. Our packers are conscientious people, and most of them operate on a sound financial basis. The industry does, however, require large amounts of capital, and operates on a relatively low profit margin. Given the volatility of livestock prices, and supply and demand, the risk for failure is always present. The large number of bankruptcies in the industry requires us to take this positive, corrective action to protect and strengthen the position of both producers and packers.

It is not my intention to dwell too long

on the provisions of this bill, as the managers have explained it in detail. There are several areas that are, however, worthy of highlighting.

First, the prompt payment provision is necessary to protect the livestock producer who sells his animals to a packer. Under the bill, unless the producer and packer agree in writing to the contrary, the producer must receive payment by the close of business on the day following transfer of possession of animals at the point of delivery. If the seller or his agent is not present at that point, the packer may make payment by check through the mails. In this way the seller has the option of determining how payment will be made. This is a reasonable provision.

The second, and perhaps the most important aspect of this legislation, is the provision requiring packers to hold all livestock, meats, receivables and proceeds therefrom in trust until all producers who have sold livestock to the packer on a cash basis have received payment. This provision is essential to adequately protect the livestock producer should a bankruptcy occur. While the bonding requirement will insure protection in most cases, in certain instances it is only the first step. For example, in the case of American Beef Packers, Inc., had the bonding requirement embodied in H.R. 8410 been in effect, it would have covered about $6 million of the $21 million of bad debt. That would have left producers still holding bad checks worth about $15 million, relegating them to the status of a general creditor where they might hope to recover 50 cents on the dollar. They would be out in the cold while financial institutions, having obtained a security interest in the producer's livestock, divided up the proceeds from the sale of the livestock due to their status as a secured creditor. This just does not seem fair or equitable.

The trust provision, however, remedies this situation by requiring that the packer hold the livestock, meats, receivables and proceeds in trust for the benefit of the producer. This provision gives the producer concrete assurance that he will be paid for the livestock he delivers to the packer. It does not burden the packer, nor should it hinder his access to capital. In essence, the trust would not go into effect unless a bankruptcy situation occurs.

In this regard, I would be remiss if I did not give due recognition and commendation to the Congressman from Nebraska, Mr. THONE, for his devotion to this matter. Mr. THONE toiled long and hard to familiarize himself with the problems of providing reasonable payment assurances to livestock producers. He worked out the trust provision, refined it so that it was reasonable and fair to the packers, and fought successfully in the House of Representatives to have the provisions included in H.R. 8410. His efforts should not go unrecognized. I would also like to commend the long and diligent work of the Agriculture and Forestry Committee on this bill, especially that of my colleague from Nebraska, Mr. CURTIS. They have done a fine job and a service to the American people in submitting this bill for our consideration.

Mr. President, H.R. 8410 is strong legislation that will provide a clear remedy to a situation where the potential for disaster is great. It has the support of the administration and the strong support of the major farm organizations including the American National Cattlemen's Association, National Livestock Feeders Association, American Farm Bureau Federation, National Grange, Farmers Union, and the National Farmers Organization. The Independent Bankers of America, whose member banks finance a major portion of the operations of our livestock producers, is also strongly in favor of the bill.

Mr. President, we are a meat eating people. We have the most efficient and best livestock producers in the world. They must be assured that they will be paid for their toil if we are to continue to have available to us an abundant supply of meat. H.R. 8410 will provide this assurance without unduly restricting the packing industry. It is a good and sound bill. I urge my colleagues to join me in voting for its passage.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

Mr. McGOVERN. Mr. President, I add my voice to support H.R. 8410. As Senators know, the triggering mechanism, for this legislation was the 1975 bankruptcy of an Omaha based firm, the American Beef Packers, Inc. Producer losses attributable to the insolvency of this firm were initially estimated at over $20 million. It is my understanding that proceedings in the bankruptcy courts have mitigated these producer losses somewhat, though it remains a certainty that many heavy losses will never be recovered. Initial losses to South Dakota feeders alone were $491,000.

Mr. President, we must enact the legislation before us requiring solvency for packers and prompt payment for producers, as well as protection through the trust provision of the bill for the protection of the general public and, in particular, for those producers who furnish the red meat for our homes and restaurants. The alternative would sanction ruthless practices of financial manipulators who will continue to endanger the legitimate efforts of farmers and livestock producers who seek only a safe, reliable, and honest marketplace for their products.

Mr. President, there are those who call the trust provisions of this bill "overkill." Let me say that the record of the last 5 years in packer defaults is evidence enough that the tide has now turned. Under this legislation, the payment options are on the part of the seller rather than the buyer. I, for one, think that the record is clear enough to convince this body that such a provision is reasonable.

I support the bill.

Mr. HUDDLESTON. Mr. President, I yield back the remainder of my time.

Mr. DOLE. I yield back the remainder of my time.

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 third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 8410), as amended, was passed.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that H.R. 8410 be printed as passed by the Senate and that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. The question recurs on the unfinished business.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid aside temporarily and that the Senate turn to the consideration of the conference report on the military construction bill.

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

MILITARY CONSTRUCTION AUTHORIZATION, FISCAL YEAR 1977—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on H.R. 12384 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. PERCY). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12384) to authorize certain construction at military installations and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the RECORD of June 9, 1976, beginning at page 17098.)

Mr. TAFT. Mr. President, I ask unanimous consent that Mr. William Lind of my staff be granted privilege of the floor during consideration and voting on this measure.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, I ask unanimous consent that James Smith of the Senate Armed Services Committee be granted the privileges of the floor in connection with the pending conference report.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

Mr. CHURCH. Mr. President, I ask unanimous consent that the following staff members be granted the privileges of the floor: Ben Yamajata, Dan Dreyfus, Kit Capels, Owen Malone, Fred Kraft, and Al Timothy.

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

Mr. JACKSON. Mr. President, on behalf of my distinguished colleague, Senator SYMINGTON, who is unable to be here, I have called up the conference report on the military construction authorization bill for fiscal year 1977. The report was signed by all the conferees of the House and Senate, and it has been agreed to by the House.

The bill as agreed to by the conferees is for $3,323,989,000 in new construction authority and represents a reduction of $44,226,000 in the Department of Defense's original request.

Mr. President, this conference was an easy one because the two bills in question were quite similar. The biggest problem confronting the conferees was to determine which projects would have to be deferred to stay within budgetary constraints.

I would like to briefly discuss section 612 as agreed to by the conferees. This is the provision related to the closure or significant reduction of military installations. Both the Senate and the House bills contained language related to base realinements. The version adopted by the conferees is quite similar to the Senate version with only two significant changes.

First, the thresholds of applicability have been raised somewhat so that the language applies to fewer installations. The statement of managers contains a list of the current realinement actions to which the final provision applies.

Second, this provision is applicable for 5 years rather than permanent legislation as passed by the Senate. I do not feel that either of these changes weakens the provision. I would like to state for the record that I was disappointed in the reaction of the Department of Defense toward this legislation. They refused to cooperate in the drafting of the provision or in providing comments as to the acceptability or the impact of the provision. In fact, at the last minute a letter was delivered to the committee just hours before the conference was to convene which threatens to recommend a veto of this bill if it contains any language concerning base realinements.

Mr. STONE. Will the Senator yield for one question about base closings?

Mr. JACKSON. If I may first complete my statement, I would be happy to yield.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JACKSON. With all the difficulty the Department of Defense has encountered in recent years in effecting base closures, I should think they would welcome legislation to formalize the process. I would hope that the President would approve of this provision which has virtually the unanimous endorsement of both Houses of Congress.

I would further like to thank Senator SYMINGTON and the ranking minority member of the subcommittee, the Senator from Texas (Mr. TOWER) and other Senate colleagues who participated in the conference for their support on the issue of Trident community impact assistance. It took considerable persuasion to convince our House counterparts to recede on a cut of $9 million which they had made in impact assistance authority, and I am convinced that Kitsap County, the site of the Trident facility, would have been in serious trouble without this authority. A letter was received from the Department of Defense during conference deliberations that succinctly outlines the issues and I ask unanimous consent that this letter also be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

EXHIBIT 1

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., June 1, 1976.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Our review of the Senate and House bills regarding the Fiscal Year 1977 Military Construction Authorization has revealed certain provisions that are of considerable concern. In particular, Section 612 in both the Senate and House versions could prohibit for up to one year and perhaps longer, the realignment, reduction, or disclosure of any military installation and activity in the United States at which more than 250 civilian personnel would be affected. Section 611, added by the House, would prohibit the use of funds authorized in the bill for helicopter pilot training consolidation. We believe that these provisions would represent an unconstitutional intrusion into the President's responsibility for efficient management of the military affairs of the Nation.

In August 1965, President Johnson considered a provision similar to the proposed Section 612 and vetoed the FY 1966 Military Construction Authorization Act. President Johnson concluded that, "We cannot commit ourselves, for the prolonged period required by this bill, to delay action necessary to meet the realities of the troubled world in which we live . . . . The limitations upon the Commander in Chief and the executive branch of the government here sought to be imposed are a clear violation of the separation of powers. The Attorney General has so advised me."

Should either of the two Sections described above be enrolled and forwarded to the President, the Department would be obliged to recommend his veto of the bill.

In other respects, while both bills deferred some projects and added others, the relatively small net reduction to our request demonstrates your Committee's continued support in providing these essential facilities needed to maintain the active and reserve forces. Several provisions in the Senate and House bills will have to be resolved in a conference action and involve issues which from our point of view substantially impact on the Department's initiatives and on the timely and efficient management of our construction programs. There is enclosed a synopsis of our views on these issues and, of course, we will be happy to furnish any additional information required by your Committee. Also, the issues are listed in the sequence that they normally appear in the various titles of the bill. Briefly, the Department of Defense's recommendation and position on these important issues are as follows:

Approve the Defense Systems Management School project at Fort Belvoir, Virginia, which was denied by the Senate but is required now to provide those qualified systems acquisition managers in order to more effectively execute the multi-billion dollar acquisition programs for the Department of Defense.

Approve the Ballistic Missile Processing Support Facility project at Hill Air Force Base, Utah, which is an essential element of the amendment to the FY 1977 budget submitted to the Congress by the President. The project was added by the Senate but was not addressed by the House since the decision to submit the supplemental budget request had not yet been made.

Approve the Sea Launched Ballistic Missile (SLBM) Radar Technical Support Facilities project initially listed as Northwest United States and now sited at Beale Air Force Base, California. Project was denied by the House but is considered vital to the Missile Defense Warning System of the United States.

Approve the buildings alteration project at Cameron Station, Virginia, which was denied by the Senate, but is the most cost effective measure available to provide safe administrative space to support the vast mission of the Defense Supply Agency.

Approve the bachelor housing statutory limitations, as approved by the Senate, needed to keep pace with general construction cost increases so that facilities appropriate to and adequate for the support of armed services personnel may be provided.

Disapprove the provision regarding energy sources, added by the House, which would duplicate work already accomplished by the Department of Defense, duplicate authority already contained in the Energy Policy and Conservation Act, and delay construction awards significantly at a time when unemployment in the construction industry is continuing at unacceptably high levels.

Disapprove the new section in the General Provisions, added by the Senate, which would provide the DoD with the authority to fund studies on alternative uses of military installations that are being closed or abandoned because it unnecessarily duplicates and

fragments the Federal real property disposal process.

We are also concerned with those specific project deferrals in the various titles of the bill which, in our view, represent valid requirements, are priority needs which should no longer be deferred, and are urgently needed to meet recently perceived military needs or to slow the effects of obsolescence and aging of our physical plant. Your support in restoring full authorizations for such high priority projects will have a positive effect on the state of readiness of the military establishment. The projects will be addressed separately and in more detail by the Military Department and Defense Agencies.

Your understanding and continued assistance in military construction program matters have been of considerable assistance in the past and your support of the Department's position on the above issues will be greatly appreciated.

Sincerely,

W. P. CLEMENTS, Jr.

EXHIBIT 2

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., June 2, 1976.

Hon. STUART SYMINGTON,
Chairman, Subcommittee on Military Construction Authorization, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Trident Community Impact Program was established by Congress to avoid imposing an "unfair and excessive financial burden" on the communities surrounding the new Trident Support Site. The program was also intended to permit the completion of the necessary off-base municipal facilities and services required to support the Trident base and to accommodate the large population influx (27,300 persons) to rural Kitsap County and the surrounding impact area.

The House action on the Military Construction Authorization Bill would limit the FY 1977 Community Impact Program to a level of only $2 million in relation to a request of $11 million. The House action was predicated on the grounds that the existing $7 million FY 1976 program should be sufficient (with a $2 million increment) to meet the future County/State needs through September 1977.

This House action was taken at the time that when the necessary local planning had just been completed and the *community applications for the public facilities were then being initiated.* To date, a total of $963,447 has been committed for the program including the first major public facility project ($700,000) approved last week. Eleven applications are *presently* with the Federal agencies or DOD totaling $7.5 million. We anticipate that the FY 1976 program will be fully committed by December 31, 1976.

Total FY 1977 requirements are estimated at $7.6 million for Kitsap County ($4.0 million for local share of school construction, $1.5 million for County roads, $1.1 million for sewer, water and low income housing, and $1.0 million for law enforcement, justice, and other County facilities). State requirements are estimated at $3.4 million, principally for additional State road facilities.

The FY 1977 and future year's requirements assume *maximum* Federal agency participation in normal grants with the Trident Community Impact Program being used to finance the net deficit in total requirements or the necessary matching local share. The Federal domestic agencies have been cooperating effectively with a total of $7.8 million provided through March 31, 1976 for the impact area.

With the approval of only $2 million for the Trident Community Impact Program for FY 1977, the County/State requirements for public facilities will not be met without imposing the stipulated "unfair and excessive financial burden" on the area. Given normal construction lead times, the delay will also result in crowded school facilities for the children of our DOD personnel, insufficient sewer-water services for the impact area, and inadequate highways and public services. We will have lost an opportunity to ensure that a major new Defense base does not impose major public facility and environmental burdens upon the community which is accepting a nationally-mandated strategic mission.

We would urge restoration of the full $11 million for the Trident Community Impact Program as requested in the President's budget submission.

Sincerely,

WILLIAM J. SHEEHAN,
Director, Economic Adjustment.

Mr. JACKSON. Mr. President, I urge the adoption of this conference report.

I now yield to the distinguished Senator from Florida.

Mr. STONE. Mr. President, will the distinguished Senator from Washington explain to the Senator from Florida what impact this conference report provision on base closures would have if it becomes law on the bases that the Department of Defense announced they intended to close? One of those bases was the Key West Naval Air Station in Key West, Fla.

Mr. JACKSON. May I say to the Senator that on page 31 of the conference report, I refer to this language at the top of the page, which refers to the section that I have just mentioned, section 612:

> Section 612 is retroactive to January 1, 1976, and the following currently pending realinement actions, as a minimum, are covered by the legislation.
>
> Under "Navy" is listed:
>
> Key West Naval Air Station, Florida.

That covers the requirement that there be a formal process that runs 12 months, during which there will be—rather than get into all the details of it, there will be an opportunity on the part of those opposing and those proposing to submit their views during that period of time.

They will have to present detailed justification, and I believe that Congress does have a responsibility here to see to it that closings are not undertaken in an arbitrary and capricious manner.

Mr. STONE. I thank the distinguished Senator.

Mr. JACKSON. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I wish to associate myself with the remarks of the Senator from Washington (Mr. JACKSON), and join him in urging the Senate adoption of the conference report.

I think all of the concerns of various Members of the Senate have been taken into consideration, and I think there is no controversy now remaining. I therefore urge the adoption of the conference report.

Mr. JACKSON. Mr. President, I do not think there are other speakers; I now move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

PRIVILEGE OF THE FLOOR—H.R. 10612

Mr. BAYH. Mr. President, I ask unanimous consent that Mr. Tom Connaughton of my staff be granted the privileges of the floor during the debate and votes on H.R. 10612.

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

Mr. TAFT. Mr. President, I ask unanimous consent that Stephen Entin of my staff be granted privilege of the floor during voting and consideration.

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

Mr. BUMPERS. Mr. President, I ask unanimous consent that Richard Arnold be granted privilege of the floor during debate and voting on the tax bill.

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

TAX REFORM ACT OF 1976

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. CURTIS. What is the pending business?

The PRESIDING OFFICER. The question recurs on the unfinished business, which the clerk will state.

The legislative clerk read as follows:

> A bill (H.R. 10612) to reform the tax laws of the United States.

The PRESIDING OFFICER. The pending question is on agreeing to the amendment of the Senator from Wisconsin (Mr. NELSON).

Mr. CURTIS. Mr. President, it is my hope that the Nelson amendment will not prevail. I am not totally satisfied with the tax bill as it came from the committee, but I am supporting it because I believe, in the light of the action taken by the House of Representatives, that what we are facing here would be far from the best possible solution.

The proposed amendments relating to elimination of artificial losses follow the example of the House bill. It is exceedingly complicated, it is overkill, and it would go beyond what is necessary to close the loopholes toward which it is directed.

Mr. President, a little earlier today attention was called to the fact that this limitation on artificial losses proposed in the House bill is not only complicated, but that actually it is utterly impossible to determine just exactly what it says. A distinguished lawyer appeared before our committee and pointed out that there were 26 changes in the Internal Revenue Code with reference to this one subject matter. In addition to that, Mr. President, it would stifle activity, because it is an overkill. It is my opinion

that it would end up resulting in less revenue, rather than in more.

The objective of tax reform should be to do justice. Sometimes that means action in favor of the taxpayers; sometimes it means action in favor of the Government. But we are headed for error when we say we are going to have tax reform in order to collect $2 billion or $3 billion, or any other amount, because what we mean is to violate the ordinary rules and apply a tax because we have the political power to do it.

In the field of agriculture this proposal is very harsh, because farmers who had outside income would face certain situations under which they could not charge off their losses. We are not talking about men of great wealth, we are talking about the ordinary farmer whose wife may be employed in a job of teaching school or something else in order to make a go of it, and, because the household has outside income, there would be restrictions upon the amount of losses that would actually occur, that they could charge off.

Mr. President, this is not dealing with tax shelters. It is not dealing with an abuse of tax laws. It is an overkill intended to reach the farm syndicates, but it goes far beyond.

Mr. President, I hope that when the vote is taken, this proposed amendment will be overwhelmingly rejected.

I yield the floor.

TETON DAM DAMAGE COMPENSATION

Mr. CHURCH. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of S. 3542, and that the Senate proceed to its immediate consideration.

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

The legislative clerk read as follows:

A bill (S. 3542) to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes.

The PRESIDING OFFICER. Without objection, the committee will be discharged and the Senate will proceed to its consideration.

UP AMENDMENT NO. 59

Mr. CHURCH. Mr. President, I send to the desk an amendment in the nature of a substitute for S. 3542, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH), for himself and Mr. MCCLURE, proposes an unprinted amendment numbered 59, in the nature of a substitute.

The amendment (UP No. 59) is as follows:

Strike all after the enacting clause and insert the following:

"That the Congress finds that without regard to the proximate cause of the failure of the Teton Dam, it is the purpose of the United States to fully compensate any and all parties for the losses sustained by reason of the failure of said dam. The purposes of this Act are (1) to provide just compensation for the deaths, personal injuries and losses of property, including the destruction and settlement of claims for such sulting from the failure on June 5, 1976, of the Teton Dam in the State of Idaho, and (2) to provide for the expeditious consideration and settlement of claims for such deaths, personal injuries, and property losses.

"SEC. 2. All persons who suffered death, personal injury, or loss of property resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925) shall be entitled to receive from the United States full compensation for such death, personal injury, or loss of property. Claimants shall submit their claims in writing to the Secretary, under such regulations as he prescribes, within two years after the date on which the regulations required by section 5 are published in the Federal Register. Claims based on death shall be submitted only by duly authorized legal representatives.

"SEC. 3. (a) The Secretary of the Interior, or his designee for the purpose, acting on behalf of the United States, shall investigate, consider, ascertain, adjust, determine, and settle any claim for money damages asserted under section 2. Except as otherwise provided herein, the laws of the State of Idaho shall apply: *Provided*, That determinations, awards, and settlements under this Act shall be limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and shall not include interest prior to settlement or punitive damages.

"(b) In determining the amount to be awarded under this Act the Secretary shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments or settlements of any nature previously paid with respect to such death claims, personal injury, or property loss.

"(c) Payments approved by the Secretary on death, personal injury, and property loss claims, shall not be subject to insurance subrogation claims in any respect.

"(d) The Secretary shall not include in an award any amount for reimbursement to any insurance fund for loss payments made by such company or fund.

"(e) Except as to the United States, no claim cognizable under this Act shall be assigned or transferred.

"(f) The acceptance by the claimant of any award, compromise, or settlement under this Act, except an advance or partial payment made under section shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States by reason of the same subject matter.

"(g) The Secretary shall require assignment to the United States of any right of action against a third party, including insurers, arising from the death, personal injury, or property loss with respect to which settlement is made.

"SEC. 4. (a) In the determination and settlement of claims asserted under this Act, the Secretary shall limit himself to the determination of—

"(1) whether the losses sustained resulted from the failure of the Teton Dam on June 5, 1976;

"(2) the amounts to be allowed and paid pursuant to this Act; and

"(3) the persons entitled to receive the same.

"(b) The Secretary shall determine and fix the amount of awards, if any, in each claim within twelve months from the date on which the claim was submitted.

"(c) At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but shall not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant.

"(d) Payments may be made for compensation for direct investments made in on-farm facilities in anticipation of service from the Teton Reservoir to the extent that such facilities are unuseable or are diminshed in value by the denial of such service.

"SEC. 5. Notwithstanding any other provision of law, the Secretary shall within fifteen days after the enactment of this Act promulgate and publish in the Federal Register, final regulations and procedures for the handling of the claims authorized in section 2 of this Act. The Secretary shall also cause to be published, in newspapers with general circulation in the State of Idaho, an explanation of the rights conferred by this Act and the procedural and other requirements imposed by the rules of procedure promulgated by him. Such explanation shall be in clear, concise, and easily understandable language. In addition, the Secretary shall also disseminate such explanation concerning such rights and procedures, and other data helpful to claimants, in the State of Idaho, by means of brochures, pamphlets, radio, television, and other media likely to reach prospective claimants.

"SEC. 6. The claims program established by this Act shall, to the extent practicable, be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 (42 U.S.C. 5121) and other provisions of law. The Secretary shall consult with the heads of such other Federal agencies, and shall, as he deems necessary, consistent with the expeditious determination of claims hereunder, make use of information developed by such agencies. The heads of all other Federal agencies performing disaster relief functions under the Disaster Relief Act of 1974 and other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

"SEC. 7. In order to expedite the repair and restoration of irrigation facilities damaged as a result of the failure of the Teton Dam, the Secretary is authorized and directed to enter into agreements with the owners of such facilities to finance the repair or reconstruction thereof either by direct payment or through construction contracts administered by the Buerau of Reclamation. The cost of such repairs or reconstruction shall be nonreimbursable.

"SEC. 8. After January 1 and before January 31 of each year following the date of the enactment of this Act, the Secretary shall transmit to the Congress—

"(1) a statement of each claim submitted to the Secretary, during the calendar year preceding the year in which such statement is transmitted, in accordance with this Act which has not been settled by him, with supporting papers, and a report of his findings of fact and recommendations; and

"(2) a statement of each claim settled by him and paid pursuant to this Act during the calendar year preceding the year in which such statement is transmitted. The statement shall contain a brief report concerning the character and equity of each claim, the amount claimed, and the amount approved and paid.

"SEC. 9. (a) No action shall be instituted in any court of the United States upon a claim against the United States submitted to the Secretary, or his designee, under this Act, unless and until the Secretary, or his designee, has made a final disposition of such claim. *Provided*, That the claimant may, upon fifteen (15) days written notice, withdraw such claim from consideration by the Secretary, or his designee.

"(b) Any claimant aggrieved by a final decision of the Secretary under this Act may file within sixty (60) days from the date of such decision with the United States district Court for the District of Idaho a petition praying that such decision be modified or set aside in whole or in part. The Court shall hear such appeal on the record made before the Secretary. The filing of such an appeal shall constitute an election of remedies. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(c) Except to the extent otherwise herein provided, nothing in this Act shall be construed to prevent any claimant under this Act from exercising any rights to which he may be entitled under any other provisions of law.

"(d) Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 per centum of the amount paid in connection therwith, any contract to the contrary notwithstanding. Whoever violates this subsection shall be fined a sum not to exceed $10,000.

"SEC. 10. For the purposes of this Act, the term "persons" means any individual, Indian, Indian Tribe, corporation, partnership, company, municipality, township, association or other non-Federal entity.

"SEC. 11. If any particular provision of this Act or the application thereof to any person or circumstance, is held invalid, the other provisions of this Act shall not be affected thereby.

"SEC. 12. There are hereby authorized to be appropriated such funds as may be required to carry out the purposes of this Act."

Mr. CHURCH. Mr. President, as chairman of the Subcommittee on Energy Research and Water Resources, I conducted a hearing on Tuesday of this week to consider legislation introduced by Senator MCCLURE and myself to provide relief for flood victims in Idaho who suffered loss of life and property as a result of the failure of the Teton Dam. I am pleased to report to the Senate that during executive markup session of the Interior Committe on June 16, this legislation (S. 3542) was favorably reported from the Committee on Interior and Insular Affairs by unanimous vote.

The legislation which we introduce at this time, the amendment in the nature of a substitute, is identical to that bill which was favorably reported from the Committee on Interior and Insular Affairs yesterday. Because of the extreme urgency in assuring that relief is forthcoming to the thousands of Idahoans who suffered dreadfully from this calamity, I believe it is necessary to consider this measure immediately.

To that end, I received the concurrence of the majority leader Mr. MANSFIELD, and my colleague, Mr. MCCLURE, has received the concurrence of the minority leader.

I emphasize that the amendment we offer now is identical to the amended bill that was favorably reported without a dissenting vote from the Committee on Interior and Insular Affairs yesterday. The consideration of this substitute at this time also has the approval of the chairman of the Committee on Interior and Insular Affairs.

I ask unanimous consent that a background memorandum prepared by the staff of the Committee on Interior and Insular Affairs relating to this legislation be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. CHURCH. In addition, I ask unanimous consent that a section-by-section analysis which contains expressions of intent as noted during the executive committee markup of yesterday also be printed in the RECORD.

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

(See exhibit 2.)

Mr. CHURCH. Mr. President, the magnitude of this disaster cannot be overemphasized.

Rupture of the Teton Dam constituted a tragic and devastating catastrophe for the citizens of Idaho. Thousands of people in Idaho are homeless; accumulations of a lifetime are gone; prime agriculture land is either buried under sand and gravel or washed away; damaged irrigation works, unless immediately repaired, will precipitate drought-like conditions to an additional 400,000 acres of crop lands and worst of all, 10 lives have been lost with the possibility that others who are presently listed as missing may also have died in the flood. Estimates of total damage range from $500 million to $1 billion.

While I have no doubts that Idahoans will rebuild their homes and towns and farms as quickly as possible, it is self-evident that those who have suffered this great loss need the immediate assistance of their Government in order to recover.

The purpose of this measure is to provide the Federal Government with authority to respond to this tragedy. Without assigning ultimate responsibility for the dam's failure and without making any finding as to the legal liability of any party involved, this amendment merely seeks to assure rapid and responsive relief to Idaho victims. This legislation would authorize the Secretary of Interior to review claims and make direct payments to those parties whom he finds to be eligible for such relief.

The amendment, Mr. President, is not without precedent. In 1947, a manmade disaster occurred in Texas City, Tex. Loaded bags of ammonium nitrate fertilizer stowed for overseas shipment in the holds of two ships blew up. The shipment was destined for France, as part of the U.S. Government's foreign aid program. Hundreds of persons were killed and millions of dollars of damage was wrought upon Texas City. Victims of the disaster instituted legal actions in the Federal courts under the Tort Claims Act. The case went all the way to the Supreme Court where that Court ruled that the Government was performing a discretionary function and that, therefore, it could not be sued under the Tort Claims Act. As a result of this court action in denying relief to the victims, Congress passed and the President signed legislation to provide gratuitous compensation to the disaster victims. The language of this legislation follows very closely that which was utilized in the Texas City case.

Mr. President, I am certain that Idahoans will not allow this disaster to defeat them; their spirit is too hardy. It is my belief, however, that as much as this proposed action is a compassionate gesture on the part of all the American people, its passage is also a responsibility which the Government must assume as a result of the fact that the Teton Dam was owned and operated by the Federal Government. Indeed, construction was just concluded and the reservoir was filling for the first time when the dam gave way.

I ask the Senate to favorably consider this measure.

EXHIBIT 1

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

MEMORANDUM

To: Members of the Senate Committee on Interior and Insular Affairs.
From: Dan Dreyfus.
RE: Failure of the Teton Dam in Idaho.

On June 5, the Teton Dam in Idaho failed resulting in widespread flooding in the Snake River Basin in Southeast Idaho. Current information indicates that there are seven dead, 50 missing and property damage could reach $1 billion.

Background

The Teton Dam is a feature of the Federal Lower Teton Basin Reclamation Project. Construction of the project was recommended to the Congress by the Secretary of the Interior on January 27, 1964, following feasibility investigations by the Bureau of Reclamation. The Interior Committee had jurisdiction over legislation to authorize construction of the project. The measure (P.L. 88-583, 78 Stat. 925) was approved on September 7, 1964.

Funds for preconstruction planning were appropriated in FY 1967 and initial construction funds were appropriated in FY 1968.

In 1971, a suit (*Trout Unlimited* v. *Morton*, 509 F. 2d 1276 (1974)) was brought against the project on environmental grounds. The District Court denied injunctive relief and was upheld by the Court of Appeals on December 23, 1974. A review of the issues in the case is attached.

At the time of the failure of the dam, the reservoir was filling for the first time. The construction contractor (Morrison-Knudsen-Kiewit) was still present at the site. Initial deliveries of irrigation water from the reservoir and production of hydroelectric power at the dam were to take place this year.

Physical description

The Lower Teton Division of the Teton Basin Project involved two stages of development. Only the first phase facilities were being constructed at present. The first phase of the project involved the construction of the Teton Dam and reservoir; 20,000 kilowatt powerplant, switchyard, and pumping plant at the dam, and canals and appurtenant facilities to deliver supplemental water to 111,210 acres of land primarily growing potatoes, wheat, hay and feed grains.

The Teton Dam is located on the Teton River, a tributary of the Snake River, in extreme eastern Idaho. The dam is constructed

of earth fill. The crest is 390 feet above the foundation and 3,200 feet long.

The dam site is a steep-walled, narrow canyon and the foundation geology consists of volcanic formations and ancient lake and stream deposits. Considerable seepage from the reservoir was anticipated throughout the design and construction of the structure and elaborate grouting (injection of cement water slurry) procedures were used to stabilize the foundation and abutments of the dam.

Technical surveys are presently under way to determine the nature and cause of the failure. Both Federal experts and an independent six-man panel of internationally known consultants will study and report on the situation. It is not yet possible to predict when a professional opinion about the cause can be obtained.

Congressional action

Senator Church, Chairman of the Subcommittee on Energy Research and Water Resources has written the Secretary of the Interior urging an independent, non-Federal technical review of the cause of the failure. Such a review has been initiated. The Subcommittee will review the results of the investigation when they are completed.

Disaster relief measures are in progress under existing authorities. Senators Church and McClure have introduced a bill, S. 3542, which would authorize the Secretary of the Interior to make full compensation for damages from the flood in excess of those provided in general disaster relief legislation.

A hearing on the bill has been held before the Subcommittee on June 15, 1976.

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., June 8, 1976.

MEMORANDUM

To: Dan Dreyfus, Ben Yamagata.
From: Deborah Merrick.

The Teton Dam project was challenged in federal court by a suit brought in 1971 under the National Environmental Policy Act. The trial was held in June and July, 1973 and on January 24, 1974 the District Judge issued Findings of Fact and Conclusions of law. This memorandum discusses the opinion of the 9th Circuit Court of Appeals in the appeal of the District Court's decision. The opinion is necessarily limited to a discussion of questions of law and does not review the evidence on testimony adduced during the trial.

In *Trout Unlimited* v. *Morton*, 509 F2d 1276 (1974) five environmental organizations and three individual plaintiffs sought reversal in the Court of Appeals of a district court opinion holding the environmental impact statement prepared by the Department of Interior for the Teton Dam Reservoir Project adequate under NEPA and denying plaintiffs injunctive relief.

The appellants made four arguments, all alleging non-compliance with the procedural requirements of NEPA. They alleged that (1) the environmental impact statement did not adequately detail the environmental impacts of the project, (2) failed to discuss the environmental impacts of the "Second Phase" of the project, (3) did not adequately discuss alternatives to the project and (4) did not include or discuss the benefit-cost ratio for the project.

The Court of Appeals upheld the decision of the District Court on every issue. On the first argument—lack of detail in the EIS—appellants had contended that the impact statement must discuss the secondary impacts of project (land use pattern changes). While finding some substance in this contention the court found that the failure to discuss secondary impacts in this case did not impair the ability of the EIS to perform the purposes of NEPA. Appellants further argued that the EIS must fully discuss and attach the supporting studies[1] upon which its conclusions are based. The court held that this assertion was without merit in light of prior case law. (This reference to supporting studies is the only part of the opinion which even obliquely refers to studies or reports made about the construction of the dam.) Furthermore the court found that the allegedly inadequate discussion of mitigation measures was sufficiently detailed to inform the decision-maker as required by NEPA.

The second argument involved the question of whether the final EIS for the First Phase[2] of the Teton Dam project should include a discussion of the Second Phase[3] of the project even though the Secretary of Interior had not yet submitted a finding of "feasibility" to Congress with regard to the Second Phase.

The court found the impact statement for the First Phase adequate in this respect. The court rejected appellants argument that the First and Second Phases were "interrelated steps constituing an integrated plan which must be covered in a single impact statement," relying on Congress' clear intent that the First Phase be constructed without regard to whether the Secretary ever submitted a "feasibility" finding for the Second Phase.

The alternatives considered in the EIS were (1) no development whatsoever, (2) ground-water pumping to obtain irrigation water and (3) levees to control flooding in the lower Teton Valley. The costs of doing nothing were considered excessive, ground-water pumping would not alleviate all ice jam type flooding. Under the court's test that alternatives considered need not extend beyond those reasonably related to the purposes of the project, this range of alternatives was viewed as adequate.

Finally the court disagreed with appellants' argument that the EIS should contain a formal and mathematically expressed cost-benefit analysis. The court noted the fact that there was disagreement about how environmental amenities should be valued and held that under the circumstances of the case the absence of a cost-benefit analysis was not fatal to the EIS.

EXHIBIT 2

SECTION BY SECTION

SEC. 1. The bill, as originally introduced and amended, would authorize the Secretary of Interior to fully compensate in an expeditious manner injured parties for: (1) death, (2) personal injury; (3) losses to property; including irrigation works.

SEC. 2. Entitlement section establishes the right of victims to compensation. Adds the language of section 8 of the bill to this section requiring claimants to (a) file claims in writing; (b) file claims within 2 years of issuance of regulations otherwise be barred from filing; and (c) in the case of a dead victim only a duly authorized legal representative could file a claim.

SEC. 3. Subsection (a): Secretary of the Interior or designee is authorized and directed to invesitgate, establish and settle claims. Where settlement cannot be reached provisions governing appeals or other courses of action open to claimants as established in section 9 of the bill shall apply. In establishing the amount of damages due and owing the laws of the State of Idaho apply except that only actual or compensatory damages—measured by money injuries or loss—and not including interest prior to settlement or punitive damages, shall be awarded.

Subsection (b). Any payments received (except life insurance benefits) as a result of the dam failure shall serve as an offset against the awards to be made under this Act.

Subsection (c) and (d). Prohibition of insurance subrogation claims, that is, an insurance company cannot file a claim in the place of an insured party who might otherwise be entitled to an award under this Act except for the fact that he or she was covered by insurance.

Subsection (e). Only the U.S., under provisions of subsection (g) infra, may receive the assignment of a claim recognized under this Act. This provision is meant to prevent the purchasing of possible claims.

Subsection (f). Any final settlement of a claim constitutes a release of any claim the claimant might otherwise have against the U.S.

Subsection (g). Where a final settlement has been made under this Act the Secretary shall require as a pre-requiste the assignment to the U.S. of any cause of action the claimant may have against a third party arising out of the subject matter of the claim.

The purpose of this subsection is to assure that the United States will, as a condition to its settlement of claims under the Act, become subrogated to any rights of action the claimant may have against any third party by reason of the death, injury, or property loss forming the basis of the settlement made under the Act. The subsection is intended to supplement and not to change other laws applicable to the same subject matter.

SEC. 4. Subsection (a). To determine the awards made under this Act the Secretary must confine his determination to: (1) did loss result from failure of dam; (2) how much was the loss; and (3) is the correct party claiming the loss.

Subsection (b). The Secretary has 12 months from the date the claim was submitted in which to determine and fix the amount of a claim. If the claim is still in dispute after that time the section 9 provisions apply.

Subsection (c). At the request of the claimant, the Secretary is atuhorized to make advance or partial payment on a claim in those instances where substantial hardship might

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[1] The record indicates that the following studies were available and utilized: (a) A study of 1959 conducted by the Bureau of Sport Fisheries and Wildlife. This study appeared as a part of House Document 208, printed January 29, 1964. (b) An archaelogical exploration of the Teton Reservoir site was made in 1967 by Idaho State University for the National Park Service. (c) An investigation conducted by the United States Bureau of Mines. (d) An extensive study of the probable effect of the project on the quality of the water, both in the reservoir and downstream in the river, completed by water quality experts of the United States Bureau of Reclamation. (e) Extensive foundation studies of the damsite and reservoir area have been conducted by geologists of the United States Bureau of Reclamation. (f) Studies conducted by the National Park Service and Idaho Department of Parks. (g) Since the early 1950's and even before, the Corps of Engineers of the United States Army, as well as the United States Bureau of Reclamation, had made studies of the magnitude and extent of flooding from the Teton River. (h) Ground water hydrology studies and tests performed over a period of many years by the United States Geological Survey and Bureau of Reclamation.

[2] The First Phase included the actual construction of the dam and reservoir and disposition of 100,000 acre feet of active reservoir capacity for irrigation purposes.

[3] The Second Phase, as authorized by Congress, called for disposition of the remaining 100,000 acre-feet of active reservoir capacity. This Phase could not be implemented until after the Secretary submitted a finding a "feasibility" to Congress and the President.

be imposed on the claimant if some part of the claim is not paid.

The purpose of this subsection is to make interim financial relief available to claimants in advance of the final settlement of all their claims under the Act. The subsection expects that the Secretary will exercise his regulatory authority to promptly establish a procedure for advance or partial payments of ascertainable damages prior to final settlement of all claims submitted by a claimant. The subsection intends that the standard of "substantial hardship" employed therein will be liberally construed so as to do equity to claimants.

Subsection (d). Payments may also be made to those claimants who anticipated water service from the Teton reservoir, made expenditures specifically for that purpose, and now without water service those expenditures serve no economic purpose.

This subsection provides authority for the Seecretary to compensate farmers who would have been served irrigation water supplies from Teton Reservoir, and who have made investments in distribution works and other capital improvements in anticipation of such service. It is the intent of the language that all or any portion of such investments which are determined to be associated with facilities which are unuseable or diminished in value without the project water supplies would be reimbursed by the Secretary.

SEC. 5. The Secretary is required to publish and put into effect final regulations to administer this Act. This provision waives the period for notice and comment on regulations otherwise required by the Administrative Procedures Act. This provision requires the Secretary to publish and disseminate easy to understand information about the program authorized by this Act.

SEC. 6. The program established by this Act is to be coordinated with other federal disaster relief programs.

SEC. 7. Authorizes and directs the Secretary to enter into agreements with privately and publically owned irrigation works for direct payments for or reconstruction of such works on a non-reimbursable basis.

SEC. 8. The Secretary is required to report to Congress each year this program is in existence (a) on the claims not settled and the reasons therefore, and (b) those claims settled.

SEC. 9. Subsection (a) Where a claim has been submitted to the Secretary no legal cause of action may be instituted in a court of law (1) until that claim has been finally disposed of by the Secretary or (2) until the claimant withdraws the claim upon 15 days notice to the Secretary.

Under this subsection other claims against the United States based on the same subject matter are barred after the claim is filed and been finally disposed of by the Secretary. However, the claimant may at any time, upon fifteen (15) days written notice withdraw his claim from consideration by the Secretary, and would then be free to pursue whatever other remedies are available to him under the law.

Subsection (b) Once a final disposition has been made of a claim, the claimant has 60 days in which to appeal the decision of the Secretary to the U.S. District Court in Boise. If supported by substantial evidence on the record considered as a whole the Court shall find the Secretary's decision conclusive, otherwise the court may modify or set aside.

Subsection (c) Except as provided herein, the claimant retains all of his rights under law.

Subsection (d) Attorney or agent fees are to be taken out of awards and no more than 10 percent of any award may be claimed for such purpose. Violation of such provision shall result in a $10,000 fine.

SEC. 10. Definitions.

SEC. 11. Separability clause.

SEC. 12. Authorization for the program.

Mr. CHURCH. Mr. President, I yield at this time to my distinguished colleague from Idaho, Senator MCCLURE.

Mr. MCCLURE. Mr. President, I thank the distinguished senior Senator from Idaho for his remarks and I am, of course, in full accord with the action being taken and with the remarks the Senator has made.

Mr. President, this is a difficult and tragic time for all those Idahoans who have suffered so many losses as a result of the failure of the Teton Dam. Our sympathy is, of course, extended to the families and friends of those who have lost their lives in this tragedy. We must be thankful that the loss of life was no greater. Under the circumstances, that is no small miracle.

No amount of money can compensate for those losses nor can the efforts of a lifetime and the treasured keepsakes of a family, which were so quickly wiped out, be replaced. But we can, and we must, see to it that full compensation is made for damages suffered as the result of the collapse of this Federal dam.

As the disaster began, our first concern was to protect against losing more lives and reduce the damage while the flood was raging. Our task now is to begin rebuilding.

The reason that the special legislation now before the Senate is needed is that the Federal Government is faced with somewhat of a unique dilemma.

In 1964, the Congress of the United States authorized and later appropriated money for the construction of a Government-owned dam on the Lower Teton River in Idaho. That dam was nearly completed by the Bureau of Reclamation, when, on June 5, 1976, it failed.

I think it is clear that no act of God created the destruction, no act of God took the toll of human lives, and no act of God caused the thousands of injuries suffered when the wall of water, which the people of the area thought was peacefully stored behind this Government structure, suddenly swept down the valley. There is no question that the Federal Government is directly responsible for the consequences of the dam's failure. The legislation we have introduced would see that those residents who suffered so great a loss are at the least monetarily compensated for this disaster which has swept over them through no fault of their own.

The most recent figures show that more than 3,400 homes have been damaged—584 completely destroyed, 1,642 sustaining major damage, and another 1,267 sustaining minor damage. Nearly 98,000 acres of productive farmland are damaged and it is not yet known how much of this year's producion is lost. Between 12,000 and 15,000 head of livestock are missing.

Even more tragic is the loss of human life, which by a miracle only numbers 10.

These people are not victims of a natural disaster, but of a Government structure that failed. This bill provides just compensation for the personal injuries and deaths as well as the loss and damage to property. It does not ask for special privileges for the people of Idaho, but insures simple justice for the victims of this tragedy. The compensation is limited to the actual damage suffered.

Specifically, provided in this special legislation a claimant includes: any individual, Indian, Indian tribe, corporation, partnership, company, municipality, township, association, or other non-Federal entity.

Other major provisions are that—

All persons who suffered death, personal injury or loss of property shall be entitled to receive full compensation.

Claimants shall submit their claims in writing to the Federal Government under regulations to be established.

At the request of the claimant, the Government can make a partial payment prior to the final settlement of a claim.

A claimant has 2 years in which to file a claim. Thus, for example, farmers who may find damages to land not noticeable the first year, will still be able to file for losses the second year.

Irrigation facilities that were built in anticipation of irrigation water from the dam and are now not of use can receive compensation.

The restoration of irrigation structures that were constructed by the Government following the disaster will be fully compensated.

The Federal Government is directed to settle any claims for money damages within 1 year from the date on which the claim was submitted.

Any claimant in disagreement on the final decision of the Federal Government may file within 60 days a claim in the U.S. District Court.

The Secretary of the Interior is directed to carry out this act.

Again, this bill is not a Government subsidy, a charity, or special benefit. It provides for a prompt settlement and directs swift action by the administrative agencies. Timely action on the bill provides not only the compensation to the people of Idaho but is in the best interest of the American taxpayer and the Federal Government. Any delay increases the chances of further losses in the area.

The President has already requested funds for the compensation to the victims of this tragedy. This action indicated widespread support for the principle that indeed the Federal Government is obligated to restore to the people of Idaho that which was taken from them.

Mr. President, the people of eastern Idaho will have to endure the effects of this tragedy for years to come. I urge that S. 3542 be passed today so that the rebuilding process can begin and the victims of this disaster can move toward a return to a normal and productive life.

I also inform the Senate that we will for purposes of legislative history later supplement the RECORD with what would have been the staff committee report had this legislation followed the usual route, because I think that legislative history may prove to be important.

I also commend the Federal Disaster Assistance Administration for the manner in which they have moved into the area, starting the day after the flood, the way in which they have responded through all of the Federal agencies in

marshaling all available assistance to alleviate the loss of life and the loss of property in that area.

I should comment, too, that the President acted very quickly in asking for a supplemental appropriation for the payment of claims, that action having already cleared the House, by way of amendment to the public works appropriations bill, and is in the Appropriations Committee in the Senate at this time, and we hope that it will clear the committee today.

I think, too, both my colleague and I would be remiss if we did not publicly thank the staff of the Committee on Interior and Insular Affairs as well as our personal staffs for the countless hours that they have put in in bringing this legislation to the point that it now is where it is ready for passage in the Senate. It has happened very quickly, but that should not obscure the fact that there are many hours of staff work that has gone into the development of and support for this legislation.

Mr. President, I simply join with my colleague and ask the Senate to give us the assistance to which we believe the people of Idaho are entitled as a result of the disaster brought on by the failure of a Federal structure in our State.

Mr. CHURCH. Mr. President, I concur in the observations that my colleague, Senator McCLURE, has made, and I join with him in expresions of appreciation, to the administration and the members of the staff of the Committe on Interior and Insular Affairs for their hard work done in response to the urgent need of so many people, the victims of this disaster. I hope that the Senate will now move to approve the legislation.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. 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. 3542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that without regard to the proximate cause of the failure of the Teton Dam, it is the purpose of the United States to fully compensate any and all parties for the losses sustained by reason of the failure of said dam. The purposes of this Act are (1) to provide just compensation for the deaths, personal injuries and losses of property, including the destruction and damage to irrigation works, resulting from the failure on June 5, 1976, of the Teton Dam in the State of Idaho, and (2) to provide for the expeditious consideration and settlement of claims for such death, personal injuries, and property losses.

SEC. 2. All persons who suffered death, personal injury, or loss of property resulting from the failure on June 5, 1976, of the Teton Dam of the Lower Teton Division of the Teton Basin Federal reclamation project which was authorized to be constructed by the Act of September 7, 1964 (78 Stat. 925) shall be entitled to receive from the United States full compensation for such death, personal injury, or loss of property. Claimants shall submit their claims in writing to the Secretary, under such regulations as he prescribes, within two years after the date on which the regulations required by section 5 are published in the Federal Register. Claims based on death shall be submitted only by duly authorized legal representatives.

SEC. 3. (a) The Secretary of the Interior, or his designee for the purpose, acting on behalf of the United States, shall investigate, consider, ascertain, adjust, determine, and settle any claim for money damages asserted under section 2. Except as otherwise provided herein, the laws of the State of Idaho shall apply: *Provided,* That determinations, awards, and settlements under this Act shall be limited to actual or compensatory damages measured by the pecuniary injuries or loss involved and shall not include interst prior to settlement or punitive damages.

(b) In determining the amount to be awarded under this Act the Secretary shall reduce any such amount by an amount equal to the total of insurance benefits (except life insurance benefits) or other payments or settlements of any nature previously paid with respect to such death claims, personal injury, or property loss.

(c) Payments approved by the Secretary on death, personal injury, and property loss claims, shall not be subject to insurance subrogation claims in any respect.

(d) The Secretary shall not include in an award any amount for reimbursement to any insurance fund for loss payments made by such company or fund.

(e) Except as to the United States, no claim cognizable under this Act shall be assigned or transferred.

(f) The acceptance by the claimant of any award, compromise, or settlement under this Act, except an advance or partial payment made under section shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States by reason of the same subject matter.

(g) The Secretary shall require assignment to the United States of any right of action against a third party, including insurers, arising from the death, personal injury, or property loss with respect to which settlement is made.

SEC. 4. (a) In the determination and settlement of claims asserted under this Act, the Secretary shall limit himself to the determination of—

(1) whether the losses sustained resulted from the failure of the Teton Dam on June 5, 1976;

(2) the amounts to be allowed and paid pursuant to this Act; and

(3) the persons entitled to receive the same.

(b) The Secretary shall determine and fix the amount of awards, if any, in each claim within twelve months from the date on which the claim was submitted.

(c) At the request of a claimant, the Secretary is authorized to make advance or partial payments prior to final settlement of a claim. Such advance or partial payments shall be made available under regulations promulgated by the Secretary under section 5, which regulations shall include, but shall not be limited to, provisions for such payments where the Secretary determines that to delay payment until final settlement of the claim would impose a substantial hardship on such claimant.

(d) Payments may be made for compensation for direct investments made in on-farm facilities in anticipation of service from the Teton Reservoir to the extent that such facilities are unuseable or are diminished in value by the denial of such service.

SEC. 5. Notwithstanding any other provision of law, the Secretary shall within fifteen days after the enactment of this Act promulgate and publish in the Federal Register, final regulations and procedures for the handling of the claims authorized in section 2 of this Act. The Secretary shall also cause to be published, in newspapers with general circulation in the State of Idaho, an explanation of the rights conferred by this Act and the procedural and other requirements imposed by the rules of procedure promulgated by him. Such explanation shall be in clear, concise, and easily understandable language. In addition, the Secretary shall also disseminate such explanation concerning such rights and procedures, and other data helpful to claimants, in the State of Idaho, by means of brochures, pamphlets, radio, television, and other media likely to reach prospective claimants.

SEC. 6. The claims program established by this Act shall, to the extent practicable, be coordinated with other disaster relief operations conducted by other Federal agencies under the Disaster Relief Act of 1974 (42 U.S.C. 5121) and other provisions of law. The Secretary shall consult with the heads of such other Federal agencies, and shall, as he deems necessary, consistent with the expeditious determination of claims hereunder, make use of information developed by such agencies. The heads of all other Federal agencies performing disaster relief functions under the Disaster Relief Act of 1974 and other Federal authorities are hereby authorized and directed to provide the Secretary, or his designee, such information and records as the Secretary or his designee shall deem necessary for the administration of this Act.

SEC. 7. In order to expedite the repair and restoration of irrigation facilities damaged as a result of the failure of the Teton Dam, the Secretary is authorized and directed to enter into agreements with the owners of such facilities to finance the repair or reconstruction thereof either by direct payment or through construction contracts administered by the Bureau of Reclamation. The cost of such repairs or reconstruction shall be nonreimbursable.

SEC. 8. After January 1 and before January 31 of each year following the date of the enactment of this Act, the Secretary shall transmit to the Congress—

(1) a statement of each claim submitted to the Secretary, during the calendar year preceding the year in which such statement is transmitted, in accordance with this Act which has not been settled by him, with supporting papers, and a report of his findings of fact and recommendations; and

(2) a statement of each claim settled by him and paid pursuant to this Act during the calendar year preceding the year in which such statement is transmitted. The statement shall contain a brief report concerning the character and equity of each claim, the amount claimed, and the amount approved and paid.

SEC. 9. (a) No action shall be instituted in any court of the United States upon a claim against the United States submitted to the Secretary, or his designee, under this Act, unless and until the Secretary, or his designee, has made a final disposition of such claim: *Provided,* That the claimant may, upon fifteen days written notice, withdraw such claim from consideration by the Secretary, or his designee.

(b) Any claimant aggrieved by a final decision of the Secretary under this Act may file within sixty days from the date of such decision with the United States District Court for the District of Idaho a petition praying that such decision be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The filing of such an appeal shall constitute an election of remedies. The decision of the Secretary incorporating his

findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(c) Except to the extent otherwise herein provided, nothing in this Act shall be constructed to prevent any claimant under this Act from exercising any rights to which he may be entitled under any other provisions of law.

(d) Attorney and agent fees shall be paid out of the awards hereunder. No attorney or agent on account of services rendered in connection with each claim shall receive in excess of 10 per centum of the amount paid in connection therewith, any contract to the contrary notwithstanding. Whoever violates this subsection shall be fined a sum not to exceed $10,000.

SEC. 10. For the purposes of this Act, the term "persons" means any individual, Indian, Indian tribe, corporation, partnership, municipality, township, association or other non-Federal entity.

SEC. 11. If any particular provision of this Act or the application thereof to any person or circumstance, is held invalid, the other provisions of this Act shall not be affected thereby.

SEC. 12. There are hereby authorized to be appropriated such funds as may be required to carry out the purposes of this Act.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate will now resume consideration of the unfinished business.

The pending question is the amendment of the Senator from Wisconsin.

Mr. CANNON. Mr. President, I ask unanimous consent that Aubrey Sarvis of my staff have the privilege of the floor during the consideration of this measure.

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

Mr. FANNIN. Mr. President, at this time I shall comment on unprinted amendment No. 57 to H.R. 10612, the first amendment that will be under consideration in the measure before us.

I view the House bill as a classic example of the "no growth" legislation which is so popular among many of my colleagues in the Congress.

For example, the House has attempted to deal with certain tax shelter abuses by developing new code provisions, notably the LAL provisions. Final enactment of those features, in my opinion, would stifle capital investment throughout the economy, but particularly in real estate, farming, equipment leasing, oil and gas, movie and sport franchise industries.

It is my view that any tax bill finally adopted by the Congress should encourage investment on a broad basis throughout the economy. This can be achieved by creating positive investment incentives, rather than negative incentives.

The Senate Finance Committee was in mark up on H.R. 10612 for over 5 weeks. The committee spent 2½ of those weeks considering alternative approaches to tax shelter abuses and a minimum tax and maximum tax. I believe we have succeeded in formulating responsible alternatives which meet the objective of eliminating abuses and yet not discouraging vital investment.

I feel that the Congress and particularly the House has lost sight of the fact that many tax shelters are dependent on the use of tax preferences enacted by the Congress for the specific purpose of stimulating certain industries. Preferences such as accelerated depreciation and the expensing of intangible drilling costs were created over the years as a means by which to encourage investment in high risk industries.

I realize that some individuals have been successful in combining a series of tax shelter advantages to avoid paying any taxes. Such abuses are basically wrong. Despite the fact that these individuals may be adding an important boost to the economy, it is difficult to justify their paying no taxes. Extensive hearings were held on these fundamental issues just prior to mark up.

Mr. President, it is my belief that the steps taken by the Senate Finance Committee more carefully recognize the policies implicit in tax preferences than do those taken by the House.

The House chose to deal with the alleged abuses through use of the limitation on artificial accounting losses provisions. These LAL provisions are designed to limit the use of tax shelters by creating new categories and subclasses of property and by establishing intricate accounting rules which produce different results between the various categories of property covered.

From listening to an explanation of the requirements under the LAL provisions of the House—and these, of course, would be adopted in unprinted amendment No. 57, with the only exception being residential real property—we would have a hopelessly unworkable situation.

The Senate Finance Committee received extensive public testimony in opposition to LAL. Virtually all witnesses were opposed to the adoption of the House LAL provisions on the common ground that they were hopelessly unworkable. An additional theme among these several witnesses was that LAL represented a classic case of legislative overkill. That is, while they corrected certain abuses, they went much further in their effect on legitimate economic investments.

The need for capital formation in this Nation today is perhaps one of the most important, if not the most important, factor involved in the continuation of our economic recovery now underway.

Mr. Peter Faber, chairman of the tax section of the New York State Bar Association traced the steps which a lawyer in general practice probably would have to cover in determining whether the LAL provision applied to a client prepared to invest in rental real estate. Mr. Faber isolated no less than 20 steps necessary in this process before concluding that no firm opinion could be provided his client.

The Senate Finance Committee's alternative to LAL has been to address the principal elements of excessive use of tax shelters. These are deferral of tax liability and leveraging. The committee has fashioned special rules applicable to the several industries in which tax shelters are widely used.

For real estate, the committee decided to treat construction period interest—but not taxes—and accelerated depreciation in excess of straight line as an item of tax preference for the purpose of the minimum tax. We did not prohibit deduction against nonrecourse debt in the real estate industry because of the common and pervasive use of this form of financing throughout the industry. Unlike other industries which depend heavily on nonrecourse financing, there is an economic basis in the real estate industry for the legitimate use of such financing due to the value of the real property pledged. The Senate Finance Committee did agree to the House provision relating to recapture of depreciation on real property with slight modification in the area of governmentally subsidized property.

Other industries including farming, oil and gas, motion picture, equipment leasing, and sport franchises are subject to slightly different rules. The most important feature here is the limitation of deductions to the amount of capital at risk. These provisions would exclude the use of nonrecourse loan financing as well as amounts which are protected against loss by guarantees, insurance, or otherwise. Various other tax shelter advantages used in these industries have been added to the new minimum tax which has been adopted by the committee.

Mr. President, the Finance Committee exercised its jurisdictional authority in the most responsible manner by rejecting the House's LAL provisions and replacing them with carefully designed alternatives. I urge the Senate to support the Finance Committee by voting against any amendment to substitute LAL for the provisions in the bill before us.

Mr. President, I feel that the adoption of unprinted amendment No. 57 would be a disaster, for our economy. We are now experience a recovery from an extended period of high inflation and recession. I know the Senate recognizes that we must be concerned that we do not return to another recessionary period.

We must provide the capital formation so that the jobs can be created in the private sector across the Nation. We cannot maintain our present economy or go forward the way that is projected if we do not take advantage of our opportunities.

Mr. President, in this great Nation we have a tremendous need for energy. Plans are going forward, based on present law, including tax laws, to meet our future energy requirements. Low-cost energy is at the base of our economy.

We have been able to compete with many other countries of the world because we do have low-cost energy. We have been able to pay higher wages, been able to provide better working conditions, and do many other things for our working people that are not done in other countries of the world. We can be very proud that that has been possible. But as

I emphasize, it has only been possible because we have had the capital formation to provide the modern equipment to provide the low-cost energy to accomplish these great objectives. Mr. President, we shall be going backward if we decide that we are going to adopt the provisions of unprinted amendment No. 57. I hope that the Members will look into just exactly what is involved. I am sure if they carefully analyze the results that will transpire in their own States and the communities and States around this Nation, they will give further consideration to this legislation.

Mr. President, I yield the floor.

JURISDICTIONAL DEBATE

The PRESIDING OFFICER. The hour of 3 p.m. having arrived, pursuant to the previous order, the Senate will now commence debating the so-called jurisdictional questions.

Mr. LONG. Mr. President, I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Alan Schick of the Congressional Research Service have the privilege of the floor during discussion of this issue.

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

Mr. LONG. Mr. President, I believe it could help all Senators understand what we are talking about when we discuss the jurisdictional problem in regard to the Committee on Finance and the Committee on the Budget if we had a blackboard where the figures could all be put down and all Senators could look at the same figure and understand what we are talking about. We do business that way in the Committee on Finance all the time. I ask unanimous consent that our staff be instructed to locate a blackboard and a piece of white chalk so that we can write down some figures which Senators can look at while we are talking.

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

Mr. LONG. Mr. President, I believe that those of us on the Committee on Finance have spelled out our view about the budget problem in that Senate Concurrent Resolution 109 states that: First, the recommended level of Federal revenues is $362.5 billion and second, the amount by which the aggregate level of Federal revenues should be decreased is $15.3 billion. It seems to me that the Committee on the Budget did exactly what it should have done insofar as that resolution is concerned. They gave us a figure—$15.3 billion—for revenue reductions for fiscal year 1977. As I read the budget language and the budget law and the legislative history, in which I had a chance to participate, it pretty well dictates that the budget process is a squeezing out process and that the Budget Committee is to assign to each committee and for each category an overall figure.

Then each committee is expected to live within that figure. Now, we on the Committee on Finance had the opportunity to play a part in arriving at the figure that was to be chosen. At the beginning of this process, the Budget Committee invited us to state to the Budget Committee how much revenue, either in terms of increases or reductions, we thought would be appropriate in the year. We simply took the view that in view of the fact that there were $17.3 billion of tax reductions that would expire July 1, if we were permitted $17.3 billion latitude, any recommendations that we had to make on tax increases or tax decreases could be fitted within the $17.3 billion.

After the Committee on the Budget got through with its deliberations, it reduced that figure to $15.3 billion. As far as we on the Committee on Finance were concerned, we were prepared to live within the $15.3 billion. It seems to me that it is very clear, and the legislative history makes it clear, that within that $15.3 billion, the Committee on Finance has the discretion to make the detailed decisions. We had the right either to recommend a lesser amount of tax cuts or we had the right to recommend some tax increases, which would make it possible to have further tax cuts, or we had the right to do some of both—to recommend some larger cuts in some areas, some additional revenue in other areas, to mix the factors up as our best judgment would dictate—so long as we came out with a figure that was about a $15.3 billion revenue reduction.

That is what we have done, Mr. President. I am not here to say that anybody need agree with the particular mix that we arrived at. We could arrive at it however we wanted to arrive at it, I always thought, because we were the ones who were supposed to make the nittygritty decisions—the small decisions. The Budget Committee function was to make the overall decision—and a very important one, I must say—as to the overall amount of money that was available to the Committee on Finance for recommendations with regard to tax cuts or tax increases, all of which would have to fit within the overall figure.

Some of the things we have done do not meet with the agreement of some Senators, but the result is the collective judgment by its members of what the Finance Committee ought to do, and that is all we ought to be recommending.

I do not quarrel with the right of any Senator to disagree with that. I do contend, and I would like to get this settled, that we have the right to recommend it, that we are within both the letter and the spirit of Senate Concurrent Resolution 109, and that that settles that part of it. If the Committee on the Budget or any member of it does not agree with how we recommended it, it seems to me that it is for each individual Senator to suggest how he thinks it should be done. I do not think that we should be arguing about whether the Committee on Finance has respected both the letter and the spirit of Senate Concurrent Resolution 109, because in my judgment, we have fully complied with it. I would be pleased to have the views of the chairman of the Committee on the Budget on this subject.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MUSKIE. Yes, of course.

Mr. PERCY. Mr. President, I ask unanimous consent that David Kapnich and Hannah McCornack have the privilege of the floor during further proceedings on H.R. 10612.

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

Mr. MUSKIE. Mr. President, I ask unanimous consent that Mike Joy and Bert Carp have the privilege of the floor during this discussion.

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

Mr. MUSKIE. Mr. President, I take it there was an interesting debate on the floor of the Senate last night. I regret that I was not here. There probably was a better audience then than we will get this afternoon. I take it, also, that the debate generated considerable heat and that I appear to have been a prime cause for a lot of that heat.

Well, I was not here last evening because, months ago, I had promised the students of the senior class at Presque Isle High School in northern Maine that I would speak to them this morning at their commencement exercises. Normally, at this time of year, since I left at 5 o'clock yesterday afternoon and planned to arrive at 1:30 this afternoon, keeping that promise would not have disrupted the Senate schedule or interfered with the flow of legislation. Unfortunately, it did in this case, apparently, but in any case, I still would have kept my promise.

As I read the debate, as I did while traveling from Boston to Washington this afternoon, I was reminded of an experience I had 2 or 3 weeks ago in Maine. I was visiting an old friend who is in a nursing home, very ill. While I was visiting her, I received a message that another patient wanted to see me. So I stopped by his room and when I walked in, he looked like a thousand years old. He was completely wasted away. I suspect he did not weigh more than 70 or 80 pounds.

But when I approached him more closely I saw there was a very definite sparkle in his eye and vitality in his intellectual processes. He told me he was 94 years old. He said:

> There are just two things I wanted to say to you, Senator. First, I have always voted for you, and I expect to vote for you next November.

Which, I thought, was the height of optimism, given his condition. But the second thing he said was:

> If you hadn't talked so damn much, you might be President.

[Laughter.]

That was my reaction to the Senate debate last night, and I am sorry I was not here. [Laughter.]

Last night, I take it, the Senate opened debate on the pending tax measure by discussing at length the relationship between the bill and the congressional budget. That debate shed some light on the concerns of all committees, not just the Committee on Finance and the Committee on the Budget, about their roles and responsibilities under the rules of the Senate as they may have been amended by the Congressional Budget Act.

But the debate also reflected considerable misunderstanding of the role and the responsibility of the Budget Com-

mittee. So, at the outset, Mr. President, I want to make as clear a statement as I can of the Budget Committee's responsibility as I understand it in this matter, and the relationship between this bill and the congressional budget.

First of all, the Committee on Finance is clearly within its jurisdiction in reporting this bill. Second, whether this bill complies with the congressional budget is to be determined by the Senate as a whole, not by the Budget Committee and not by the Finance Committee.

Third, the Budget Committee's responsibility requires us to call the Senate's attention in making its decision on the disparity between the bill and the congressional budget. That budget called for a tax cut for all of fiscal 1977. But this bill will result in a tax increase at the rate of $10 billion a year.

That budget called for a $2 billion reduction——

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

Mr. MUSKIE. If I might finish my statement, I will yield at the end. I noted in the RECORD this morning that the Senator was allowed to make his whole statement and then there was a very interesting colloquy, and I expect if I am allowed to do the same it will be followed by an interesting colloquy. [Laughter.]

That budget called for a $2 billion reduction in tax expenditures to reduce the deficit.

This bill raises only half that amount, and even that $1 billion disappears next year.

That budget called for these tax adjustments in order to continue our march toward economic recovery and a balanced budget at the earliest possible date. This bill pursues a different economic plan.

But no one, Mr. President—I emphasize this, no one—is challenging the Finance Committee's jurisdiction to have reported this bill. No one connected with me is accusing the Finance Committee of bad faith in doing its duty as it sees it. As the letter Senator BELLMON and I sent to all Senators yesterday clearly stated, that committee has done its duty as it saw it. That a significant number of Finance Committee members have joined together to offer amendments to make the committee bill conform more closely to the congressional budget does not in any way impugn the actions or the motives of the other members of the Finance Committee who reported this bill. I want to make that clear.

May I make it perfectly clear that the Finance Commitee bill offered to the Senate today is not a flim-flam, in this Senator's judgment, as some newspapers have alleged. Rather, as the distinguished majority leader pointed out last night, the Finance Committee has laid before the Senate a tax proposal which was that committee's choice to report.

The Budget Committee does not write the tax bill, and the Finance Committee does not write the congressional budget. The Senate and the Congress, in the last analysis, do both. So now it is up to the Senate to choose between that tax bill and the congressional budget Congress adopted just last month, for that is the Senate's choice.

No one on the Finance Committee asserts, unless I have missed something, that this bill meets the policy choices which underlie the budget resolution. In fact, some Senators seem to think Congress had nothing particularly in mind at all in adopting the budget.

Amendments will be offered by members of the Finance Committee and others who bring the bill more clearly into line with the policy assumptions of the congressional budget. The Senate, not the Finance Committee, not the Budget Committee, will determine which of those amendments are adopted.

The Senate will decide whether to uphold the assumptions of the congressional budget. What were those assumptions on the revenue side? The revenue side of the congressional budget, as stated in the Budget Committee reports and in debate in both Houses and in the conference report, was based on two simple assumptions: one, an extension of the 1975 tax reduction to at least fiscal 1977; and, two, reduction of tax expenditures by $2 billion to help pay for that tax cut and restrain the deficit.

This bill, in all of its 1,500 pages, achieves neither of these simple purposes, so the Senate must decide.

Yet the members of the Finance Committee who favor this bill will argue, as they already have, that this bill meets the requirements of the budget resolution. They will argue, as they already have, that since they have matched the numerical totals of the budget resolution, they have upheld the intent of the congressional budget. They will argue, as they already have, that for the Senate to decide that this bill must execute the revenue assumptions of that budget, and not just some numbers in it, is an intrusion on their jurisdiction.

Much was made in this connection last night of a colloquy between Senator PACKWOOD and myself during the debate on the congressional budget this spring. In that dialog I affirmed and supported the right of the Finance Committee, as I do now again, to report a taxbill which does not execute the policy of the congressional budget. Neither the congressional budget nor the Budget Act and, certainly, not the Budget Committee, can compel the Finance Committee to report a bill which complies with the policy of the congressional budget.

Neither the Budget Act nor the Budget Committee limits the prerogatives of the Finance Committee to shape a tax bill which pursues different assumptions than those assumed in the congressional budget.

But, as I noted in the last portion of my colloquy with Senator PACKWOOD, which Senator LONG has circulated in his letter to you yesterday, the Senate is the final arbiter of which shall survive, the tax bill or the congressional budget.

(At this point, Mr. WEICKER assumed the Chair.)

The Finance Committee has exercised its prerogative and reported this bill.

Now it is for the committee to defend it.

The Senate must choose between this bill and the congressional budget.

Where the congressional budget proposed an extension of last year's tax cut at least through fiscal 1977, this bill proposes that taxes increase—starting next July 1—by $10 billion a year instead.

Where the congressional budget propose paying for a portion of that tax cut by cutting $2 billion from the $105 billion in existing tax preferences, this bill cuts only $1 billion, and even that savings disappears next year.

Where the congressional budget proposed putting the tax cut for a full year in the hands of the consumer, this bill cuts those tax cuts off 3 months early to finance existing and newly-created tax preferences.

Now what is the Budget Committee's role and responsibility in all of this? Have we no responsibility for the half of the budget which is revenues? Are we supposed to meet each March to propose a congressional budget and then retire to the cloakroom until the fall, when it is too late to advise the Senate of the implications of its tax and spending decisions? And then pop back out like some unwelcome jack-in-the-box each fall to shout, "surprise! You've blown the budget."

Hardly.

No, Mr. President, our responsibility is to shape a budget—report it—help enact it—and then help enforce it. Where Congress wants to change that budget, it can, as in this case. But changes should be conscious and purposeful. It is the Budget Committee's job to make sure they are conscious and purposeful.

It may not be pleasant to hear what the Budget Committee has to say, but so long as I am chairman of it, it will be said.

And who, after all, is the Budget Committee? We did not recently land from Mars on the Capitol Plaza and invade the Senate. Ours is a committee of other committees. Our membership includes senior representatives from virtually every standing committee in the Senate, including two from the Committee on Finance.

We do not duplicate these other committee's work. We do not make line-item decisions. We have proved we can work with other committees to make the budget process work.

Where amendments to appropriations bills have threatened budget targets, we have stood shoulder-to-shoulder with the members of the Appropriations Committee to oppose and defeat those spending proposals.

When committees—as the Armed Services Committee is now—are seeking to hold the budget line in conference with the House, we go to their aid in every way we can.

When Senator LONG fashioned the compromise language which persuaded the President to sign the once-vetoed tax cut bill last fall, we helped carry the load of debate against some of his own committee members to persuade the Senate to accept the Long solution. Because that tax bill was part of the congressional budget.

But if this debate is not a contest, Mr. President, between committees, what does it boil down to? The Budget Committee has devoted a few brief—but important—lines in the congressional budget report this year to the meaning of the revenue figure in the budget resolution. Six lines which call for a continued tax cut for all Americans through fiscal 1977, paid for in part by a modest reduction in tax expenditures.

That is clearly policy assumption stated in the report of the committee.

Senator LONG says those words are meaningless. That only the numbers in the resolution count.

I fail to understand how he can speak of the letter and the spirit of the Budget Act if only the numbers count.

The numbers are not the spirit. The report is the spirit, because it explains the numbers.

I hope the Appropriations Committee does not begin to take the same position on the Labor-HEW appropriations bill.

In any case, Senator LONG knew what the revenue number in the congressional budget meant when it was adopted last month. He spoke at length against the policy it represented. And, speaking of the $2 billion in tax reform it assumed, he warned:

> That was a mistake. We should not be asked to come up with $2 billion of tax increases effective in fiscal year 1977.
>
> I do not question the fact that it would be possible to have this revenue impact over the longer run, but I do think it is unrealistic to expect a $2 billion tax increase in the fiscal year 1977.
>
> There are many ways that the Senate can correct the mistake in the future, and I shall endeavor to show how that can be done at the appropriate time.

I take it that the Senator would not have addressed those comments to the issue unless he understood that this policy in the committee report, the Committee on the Budget, meant something and that it represented policy until it was changed.

Why would he be interested in changing a mistake in a meaningless Senate report?

Now seems to be the time of which Senator LONG spoke. Now he is asking the Senate to jettison the budget this Senate and the Congress adopted last month. Abandon it because a majority of the Finance Committee disagrees with it.

Senator LONG has been consistent in his disagreement with the revenue policy adopted by Congress in the congressional budget.

Will Congress be as consistent in upholding it?

In answering that question, we are challenged not only by this bill, or by this year's budget. We are being challenged and judged as a Congress.

The Federal budget has more than doubled in size twice since 1960.

The public debt has doubled since 1970.

We have had deficits for 39 of the last 45 years.

And, until 2 years ago, our only answer was that it is "uncontrollable."

Yet, in our frustration we have made a kind of triumph.

We invented the budget process.

And it works.

When the Budget Act became law 2 years ago, no one dreamed we would be finishing its first full year of operation right now.

And no one dared dream that we would finish right on the money—that our spending controls would work and our priority planning could make a difference.

No congressional achievements of our generation, even the impeachment proceedings, outweigh the significance for our country that this new budget process works. The budget process works if we permit it to work. The budget process is not just a committee or a resolution or a set of numbers. The budget process is all of us, Senators, Members of the House, and staff, working together in a new and systematic way to bring measured control into our national tax and spending policy.

Without the cooperation of every Member of this body—that cooperation, in my judgment, having been magnificent—this budget reform would collapse. Congress made the budget process work and Congress can break the budget process.

No point of order, no set of rules, can make the process work unless we are willing to make it work.

Now let us be candid about it. Some may wish the budget process had never been created. Some may think the Budget Committee has gone too far in testing and preserving the structure of this reform process and trying to give it flesh. Some might even say this bill has been shaped and chosen to teach the Budget Committee a lesson; that this bill, because it provides the same revenues as the numbers in the budget resolution should be passed and the policy of the budget resolution should be ignored, even at the price of $10 billion a year in increased taxes starting next July for all our constituents.

Pass it anyway and put the Budget Committee down. Take away the one evidence we have that Congress can discipline itself or can conduct the public business.

This is no dispute, Mr. President, between two committees. This is a contest between a single bill, this tax bill, and the congressional budget. This is a contest for the credibility of the budget process and the credibility of this Congress. Did we mean what we said about decreasing tax expenditures to decrease the deficit just last month? Did we mean what we said about a full fiscal year of tax cuts for our individual constituents?

The floor manager of this bill says it fits both the letter and the spirit of the congressional budget.

Mr. President, the budget is more than just a collection of numbers. It is a coherent fiscal and economic plan to move steadily toward a balanced budget and the changes Congress wants to make in our national spending priorities. That is what this debate is about.

Senator LONG says the Budget Committee is not a line item committee. I agree, and I have expressed my agreement to him a hundred times in casual conversation and on the floor.

But extending a $17 billion tax cut is not a line item, like some railroad crossing or some sewage plant.

It is a national economic policy. And reducing some of the $105 billion in existing tax preferences by 2 percent to cut the deficit, as the congressional budget proposes, is not a line item. It is a national priority, adopting its budget.

In adopting its budget Congress did not tell the Finance Committee how to write this 1,500-page bill, but we did all agree some of the things the congressional budget expected this bill to achieve, including a full year's tax cut financed in part by $2 billion in tax reform.

As my colloquy with members of the Finance Committee at the time this budget was adopted records, we did not say the full year's tax cut had to take a certain form, just that it had to be drafted to be consistent with the budget. Even as to that the Finance Committee had full discretion to depart from the budget, but if it did so, it then had to make its case for that departure to the Senate as a whole, make its case for departing from the budget.

We did not say which of 82 line-item tax expenditures should be reduced to help pay for this tax cut, but simply that some should be cut. We did not line item. We do not now. But in describing that budget we said what we meant, meant what we said, and Congress agreed barely 1 month ago.

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

Mr. MUSKIE. I am almost at the end of my statement.

Now the Finance Committee would have us abandon that plan, in order to preserve tax preference at taxpayers' expense.

It is the right of the majority of a committee to defy the congressional budget.

It is the obligation of the Congress to uphold that budget.

Yet, the congressional budget is not inflexible. Changing conditions mean changing needs. The Budget Act provides that where the economy requires it, a revised budget can be adopted.

No such change has occurred since May.

We should amend the bill to fit the budget we have adopted.

What shall we say otherwise?

That the tax reform and tax cut provisions of the budget resolutions were double talk?

A hoax?

More of the Washington shuffle?

Or shall we just say that the budget resolution is "inoperative"?

I think we all want more than that.

We owe more than that to our States.

We owe more than that to this body.

We owe more than that to ourselves.

And we are better than that.

I do not believe we will turn our backs on the budget reform.

I do not believe we will accept the individual tax increases and preserve tax preferences offered us by this bill.

It would be easy to do so—to follow the course of preserving tax preference and

smoothing over the short changing of the average taxpayer.

It would be easy.

And expected.

And wrong.

Wrong to scuttle the budget reform.

Wrong to our fellow citizens.

And wrong to ourselves.

We will either all hang together to preserve the budget process or all hang separately on the gibbet of public scorn.

So let us agree to follow our budget. Let us conform this bill to it.

And let us restore, even if but a little, the hope and confidence of our people in our Government.

And in ourselves.

I would like to close with a reference to the Budget Act, because this was discussed yesterday.

I have not had a chance to research this point thoroughly, but as I recall the Legislative Reorganization Act provides as to all other committees that legislation shall be accompanied by a report, period.

So far as I know, the Budget Committee is the only committee where the minimal contents of that report are spelled out, and for a reason, for a very definite reason.

I had something to do with writing this act. I was a member of the subcommittee. I was a member of the full committee. I was one of the floor managers of the bill in debate. I was one of the ranking conferees with the House. These provisions were put in here for a purpose.

This specifies the contents of the report at great length.

If I may read several items from the act, section 301 lays out the requirements for the budget resolution, including this:

3. The amount, if any, of the surplus or the deficit in the budget which is appropriate in light of economic conditions.

It is a clear mandate to the Budget Committee to make an economic judgment about the budget and other related policies influencing the pace of the economy.

"In the light of economic conditions." That relates to the resolution.

Now the report:

The report accompanying such concurrent resolution shall include—

Mr. President, I ask that all of the items be printed in the RECORD at this point.

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

The report accompanying such concurrent resolution shall include, but not be limited to—

(1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered;

(6) projections, not limited to the following, for the period of five fiscal years beginning with such fiscal year of the estimated levels of total budget outlays, total new budget outlays, total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in such period, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments; and

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution, and the relationship of such matters to other budget categories.

Mr. MUSKIE. I shall simply read these:

4. An allocation of Federal revenues recommended in the concurrent resolution among the major sources of such revenues.

5. Economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered.

If that does not spell out a responsibility on the part of the Budget Committee to consider not only the numbers that one finds in the concurrent resolution but the economic implications of those numbers, the policy assumptions of those numbers, then I cannot read the English language.

Then let me read section 303:

It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution, or amendments thereto, which provides an increase or decrease in revenues to become effective during a fiscal year until the First Concurrent Resolution on the budget for such year has been agreed to, pursuant to section 301.

Now, if the first concurrent resolution on the budget has nothing to say about revenue and is not intended to influence revenue raising or revenue cutting policy except to the extent that there is a single number in the resolution, then of what importance is it to make its consideration by Congress contingent upon the prior adoption of the first concurrent resolution? To adopt the theory of the budget that has been advanced by my good friend from Louisiana—and I say this with all respect—is to make a hoax of the budget process.

Let me just, in closing, say this about something Senator LONG said last December 19, in connection with the debate over the veto of the tax cut bill. He was talking about the President's proposal that we immediately adopt a spending cut of $28 billion, in round numbers. This is what Senator LONG had to say:

When we come back here—

He is talking now about this fiscal year——

and see what the President's budget is and what the Budget Committees recommend, then we are going to have to approach the Budget Committee and say, "We would like to continue this tax cut, and we are going to have to have spending cuts."

Again he said:

The Budget Committee will have that difficult problem of trying to suggest, of all these good things we would like to do, where some could come off from one place and some from another so that we could finance this $17 billion from that budget. That is a difficult task, but that would be the problem of the Budget Committee.

That is the mandate we have tried to fill. Tax expenditures, which cost tax dollars, have grown over the past 10 years from something over $40 billion a year to about $105 billion. There is a place where we can cut. Not everybody would like to cut there. Not everybody would like to cut in the same place. But that is true of the appropriations budget as well.

But here is an acknowledgement, I think a candid one, in Senator LONG's own words—an acknowledgement of the kind of responsibility that the Budget Committee has.

It is not fun. We are going to step, at some point or another, on every toe in this Chamber, probably. I knew that when I asked for the job. But notwithstanding the heated debate last night, I am still glad I got the job, and I thank you all very much.

I am happy to yield.

Mr. LONG. Mr. President, I would like to be recognized in my own right.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, fundamental to the Senator's argument is that it is not the concurrent resolution that is the budget. Fundamental to his argument is that the budget is the language that one can find in the Budget Committee's report, and whatever thought the chairman and its Members had in mind when they wrote that. That is his argument.

We have no problem whatever, Mr. President, in living within this $15.3 billion figure. Let me show you, with help from the Finance Committee staff, how that figure was arrived at. I would like to ask one of our staff assistants to put the numbers on the board as we proceed with them.

We were asked from the beginning to make our suggestions, having looked at the President's budget, as to how much money we thought would be required from those areas under the jurisdiction of the Senate Finance Committee.

We came up with the following:

$17.3 billion tax cut extension.

$2.9 billion other tax cuts—capital formation.

Add that together, with a line, and that equals the $20.2 billion gross tax cut.

Subtract $0.6 billion tax increase, mainly unemployment insurance.

That, then, gets us to a final figure of $19.6 billion net.

Mr. President, those are suggestions from the Finance Committee, which ought to know best in the area of its jurisdiction, to the Budget Committee.

We at that time fully had in mind that within that top figure of $17.3 billion

many Senators, not only on the committee but Senators who were not on the committee, would probably have suggestions about ways in which we could make tax reductions that might take precedence, because they might have more merit in their eyes than some of the things in that $17.3 billion. If so, we felt that we could simply take something out when we put something in, so that, by a squeezing-out process, we would be within the budget.

That is what a budget is supposed to be all about, as I imagine, in this sort of squeezing-out process. If you have something that you think is very good, and it was not inside the budget estimates to begin with, you have to find something to take out so you will still be within the budget.

I would suggest, now, that those figures simply be erased, and then we see what happens after that.

The Budget Committee looked at that. They allowed nothing for capital formation, and they apparently did not seem to be impressed by the possibility of requiring some money for unemployment insurance taxes. They gave us a figure—and I would like to have put on top that figure, $15.3 billion, and that it be written fairly large so we can see what we are talking about.

If one reads their committee report, one can see how the Budget Committee arrived at the $15.3 billion. They took the $17.3 billion that we suggested to them, and they proceeded to put an increase from tax expenditures—just put "tax expenditure legislation, $2 billion."

Then subtract that, and that gives you $15.3 billion.

Now, we on the Finance Committee understand how they arrived at that figure. We understand that. And it was made clear by Mr. MUSKIE on the floor that when they said "tax expenditures," they did not necessarily mean that you had to raise taxes any particular way; you could raise it however you wanted to.

He also made clear reference, in colloquy with Mr. PACKWOOD, that if the Senate Finance Committee felt that we were not able to raise that $2 billion, that we could recommend to the Senate that it simply reduce taxes less than $17.3 billion.

Mr. MUSKIE. Will the Senator yield on that point?

Mr. LONG. Yes, I yield.

Mr. MUSKIE. I want to be sure my position on that point is clear. As I reviewed the debate on the first concurrent resolution this year, I find myself saying over and over again especially to the distinguished Senator from Louisiana in connection with his amendment affecting appropriations that, of course, these are target numbers and if the committee finds it impossible to meet the target it is its duty to come to the Senate and tell the Senate to make its case and give the Senate an opportunity to change the target. That is not what the Senator is saying in this connection. He is saying he is making these changes and still doing what the budget resolution requires.

There is a different point altogether. The Finance Committee nor any other committee, including the Budget Committee, cannot unilaterally change the budget resolution. Yet if committees find it is impossible to live under the target in the budget resolution, then of course, the committee has the duty to come to the Senate floor and to make its case.

Mr. LONG. The Senator has read some of my language to me. Let me read some of his language to him.

Mr. PACKWOOD. Would this also be true, because it is slightly related, on page 6 of the committee report where you make reference to the $2 billion in the tax expenditures that you hope the Finance Committee will pick up this fiscal year—do I take that to mean it is not necessarily a mandate that we close $2 billion worth of loopholes, but that we could just as well raise the income tax or the corporate income tax $2 billion? You are just talking about $2 billion additional revenue, and the reference to tax expenditures does not necessarily mean so-called loopholes.

Mr. MUSKIE. That is right. The only mandatory number with respect to revenues is the revenue total that we have included.

We have, however, indicated in the report, as we are required, our view as to whether any revenue should be generated by tax reform. We have done that, so our view is in the report, but it is not mandated.

Mr. PACKWOOD. If the Finance Committee's judgment at the end of 2 weeks of hearings and markups, they found it impossible to close $2 billion of loopholes, and they chose to fit within the mandate of the Budget Committee by simply reducing the tax reductions from $17 billion to $15 billion and pick up $2 billion that way?

Mr. MUSKIE. That is right.

And then Mr. MUSKIE goes on to say:

What we ask is a recommended level of Federal revenues of $362.4 billion in revenues, and we arrived at that number by assuming $2 billion possible additional revenues on tax expenditures. By the time the committee acts, the revenue picture changes. We may come up with $362.4 billion in some other fashion.

So it goes on. Let me make this clear.

Mr. MUSKIE. Wait a minute.

Mr. LONG. Yes.

Mr. MUSKIE. The Senator was quoting in part from a colloquy.

Mr. LONG. How much does the Senator want me to read?

Mr. MUSKIE. Let me read what I wish to quote. Senator PACKWOOD suggested this colloquy by posing an impossibility. He said:

If the Finance Committee's judgment at the end of 2 weeks of hearings and markups, they found it impossible to close $2 billion of loopholes, and they chose to fit within the mandate of the Budget Committee by simply reducing the tax reductions from $17 billion to $15 billion and pick up $2 billion that way?

Implicitly, is that optional? Of course, it is.

I have been saying all afternoon that the Finance Committee's jurisdiction to report any bill it chooses is not changed by the budget process. I say in the next column in the RECORD:

But in the last analysis, it is the Finance Committee's judgment, and I think the Senators and the Senate subsequently.

I agree, that language in colloquy is not always as precise as it might be, but the whole thrust of this is backed up by continuing colloquy with other Members of the Senate, including the Senator from Louisiana, which I emphasized over and over and over again that the first concurrent resolution numbers are targets, that it is the duty of committees to try to meet them. If they cannot, it is their duty to come to the Senate, make the case for not meeting them, and giving the Senate a chance to decide.

There was nothing in my mind in that colloquy designed to imply that the Finance Committee has the right unilaterally to change the budget resolution.

Mr. LONG. I am pleased to see now the Senator is only talking about the total figure because that is what we ought to be talking about.

Mr. MUSKIE. I am not talking about only the total figure at all.

Mr. LONG. I have the floor. I yielded to the Senator, which was more generous than he was to me.

Mr. MUSKIE. The Senator misquoted me and started the next sentence. I challenged it.

Mr. LONG. Yes.

I insist on my rights for a moment.

If we buy the Senator's argument, then when we read the budget report and listen to the Senator's speech today, what that adds up to is this; that the Budget Committee will give the Finance Committee two things: $17.3 billion, an extension of temporary tax reductions enacted in December 1975 of $17.3 billion through 1977, and another $2 billion for an increase in tax expenditures.

And the Finance Committee, having jurisdiction over all types of legislation, would have no discretion whatsoever as to what goes into that $17.3 billion, because it is clear, according to the Senator's argument, that the Budget Committee made clear what it had in mind. It made its assumption clear and thereby the committee that has prided itself on revenue legislation since the beginning of this Nation has no discretion to recommend anything different than that.

If that is correct, Mr. President, then that same committee has the right to tell the Committee on Armed Services and the Committee on Appropriations:

We would assume that they should not put anything in here for aircraft. We think aircraft is obsolete. It does not seem to us like anything ought to be in there for aircraft, even though the President and other people recommend it.

Then, if the Committee on Appropriations and the authorizing committee, the Committee on Armed Services, come in here recommending something for aircraft, they would then be told correctly, if the Senator is correct, that they have violated the budget process and they are going to bankrupt this Government buying airplanes because it is implicit in the Budget Committee language that the Budget Committee assumed that nothing was to be recommended in the way of aircraft defense. Therefore, that cannot be considered.

Mr. MUSKIE. Mr. President, if the Senator will yield, this Senator has not made any such statement with respect to appropriations because there is nothing in the Budget Act that gives us that authority. I refer to the Budget Act with respect to its mandate in connection with revenues. It said specifically we have to allocate.

Mr. LONG. I heard what the Senator said.

Mr. MUSKIE. The Senator knows because he was in the Chamber with an appropriation modifying amendment when I told him over and over again that we are not a line item in appropriations and that the assumptions there are simply tentative and demonstrative.

Mr. LONG. Mr. President, I wish to answer that, if my rights to the floor will be respected for a few minutes. The Senator says that the language in this Budget Committee report is the law. I heard Mr. BELLMON say that last night. I could not believe it.

Mr. MUSKIE. I challenge the Senator. I made no such statement.

Mr. LONG. As I said last night, I find it difficult to believe that any Senator would stand here in this Chamber and undertake to tell any other Senator that the language in his committee report is the law. The language in his committee report is exactly what that is, how the committee went about arriving at the recommendation that they made. So to say that that is the law, Mr. President, is to me totally contrary to what one would think.

Mr. President, it seems to me that what we have here is a simple matter. The Budget Committee is expected to recommend to these legislative committees, be they Finance, Appropriations, or even the authorizing committees, Armed Services, Public Works, and all the others, what the overall figure is to be within their function and then within their jurisdiction they are supposed to be the experts who do the nitty-gritty.

I am reminded, Mr. President, of a story that occurred when my dear friend, Alben Barkley, remarried, He has left us. He was one of the most beloved Senators of all times. He is a former majority leader and Vice President. When he remarried, it caused all the ladies to raise their eyebrows and there was a lot of pleasant conversation among people to the effect that it is never too late, that there is always hope, because here he was well into his seventies marrying this fine lovely widow who was much younger than he, almost perhaps young enough to be his daughter. Everybody was pleased about it. There was conversation among all the ladies and the gentleman about it. We were very happy about it.

After he had been married a while, someone asked Vice President Barkley how the marriage was going along. He said:

> It's going just great. My wife and I had an understanding before we married. I would make all the big decisions and she would make all the small decisions. So far, we've been married 6 months, and we haven't had any big decisions to make.

[Laughter.]

Mr. President, the way this thing was supposed to be, I thought the Budget Committee was going to make the big decisions and the Finance Committee was going to make the small decisions. I regret to say that within that $17.3 billion, the chairman of the Budget Committee cannot find anything small enough for the Finance Committee to decide anything about. [Laughter.]

So all we can recommend is taxing somebody. We cannot spread any joy. The Budget Committee did that for us. We do not have that discretion.

The Senator talks about a $10 billion a year tax increase. He surely must have taken a better look at the bill than that.

The reason why we have to recommend taking something out of the $17 billion is that we are putting other things in. It is a squeezing-out process. That is what the budget is all about. So when we vote to do something for mothers who have little children and who want to go to work—better child care; when we do something to help employees own some stock in the company for which they work; when we vote to do something to help the railroads find capital to modernize and stay in business, everything we do that involves the recommendation of perhaps a hundred Senators and their suggestions—any time we do anything along that line, we have to take something else out, in order to stay inside the budget, and we did.

This $10 billion we are talking about on an annual basis really makes no practical difference in the first year, because the $35 per person tax credit with which we are dealing at this moment is something that one handles on an annual basis anyway. It does not even reflect itself in the withholding schedule. I correct that: It is reflected in the withholding schedule. But it is taken at the end of the year in the final return.

So that the overall impact would be about the same as we had in mind to begin with, that we provide far more tax help for the poor than is in the House bill. We provide far more stimulation for the economy than is in the House bill.

We did what might be unpardonable: We exercised our discretion. We listened to witnesses. If we thought they were right, we tried to go along with them. If we thought they were wrong, we turned them down. We did what we thought we should do.

Now we are told that we were wasting our time when we were holding hearings, because the Budget Committee, when it made its assumption, assumed that there was going to be nothing but $17.3 billion in tax cuts; therefore, these people could have stayed home. Everybody who told us that the investment tax credit should be changed, to give them a little more tax relief to help get the economy going, should have stayed home. Those who came here representing the railroads and told us about their plight and how the law should be modified to help them stay in business should have stayed home. Those in the airline business who have their problems and who were seeking some consideration from the tax-writing committees should have stayed home. Those involved in the energy industries who wanted to do something about insulating homes or modernizing furnaces, or wanted to do something about solar energy, or geothermal energy, should have stayed home, even though the House had sent us an energy tax bill with provisions along that line, because it had been assumed in the Budget Committee that nothing of this sort would reflect itself in these tax bills.

If that is how the Senate wants to do business, any other committee can be bound by the same kind of assumption. How would one defend his position?

We read a resolution that says $15.3 billion. That is what the law is supposed to be. We are prepared to live with it; and we will, in good faith, and in good spirit, undertake to comply with it, and we do. When we do, we are told, "You are in violation of the budget process, and you are going to destroy this country."

(At this point Mr. BAKER assumed the chair.)

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

Mr. LONG. I yield.

Mr. NUNN. I think the Senator from Maine and the Senator from Louisiana both agree that good faith in this overall process is indispensable if it is going to work.

The thing that bothers some of us is that when we get around to June 30 of next year and the Senate decides to extend the tax cut through the end of the fiscal year, assuming that happens, then what will inevitably follow from that decision is that there will be a decline of revenue of $2 billion that was not anticipated at this point, and thereby the budget resolution will be out of whack because we will have less revenue. The Senator sees that.

I ask this question: If that happens, will the Senator from Louisiana be willing to pledge to the Senate, for his part, that if the decision is made to extend the tax cut, the Finance Committee will be willing to go back to the drawing board and try to find some way to compensate for that $2 billion?

Mr. LONG. Yes, I do. I am pleased to make that commitment. In fact, I said so previously, to other Senators. Of course, I expect to live with this.

Furthermore, I am willing to make this commitment to the Senator from Georgia: Not only do I propose to live within a $15.3 billion figure here, but also, when we go to the House and undertake to resolve our differences, I expect to live with the $15.3 billion when we come back from conference. So far as I am concerned, I expect to live with what we are recommending to the Senate, and I expect the Budget Committee to hold us to that. So far as I am concerned, that is implicit in this.

Mr. NUNN. Let us assume that the Senate makes it plain sometime next year that that tax cut should be extended, and I think we will know by March of next year whether that tax cut should be extended. Would the Senator from Louisiana's committee then try to find a way to raise that $2 billion in revenue? It does not matter to the Senator from Georgia how the Senator from Louisiana goes about getting it; but would the Senator from Louisiana try to make up for that revenue loss so that we would stay in balance with the budget resolution?

Mr. LONG. I would be happy to do that any time the Senator tells us that is what he wants done.

This is another point about this mat-

ter which should be kept in mind: It is unfortunate to make an important decision such as the one we have here, when all we are really talking about is how to cut taxes, because it is not difficult to cut taxes. It is easy to get people to vote for a tax cut. I have tried it both ways, and I find it much easier to get people to vote to reduce taxes.

If we ever are going to balance this budget, we will have to face up to some very difficult decisions. Unless we can quit spending far more than I can anticipate at this point, especially if we are going to have big programs such as health insurance and guaranteed jobs, it will be very difficult ever to balance the budget. In order to do that, the Budget Committee should recommend to the Finance Committee that we should have a big tax increase, and the Finance Committee should go along and help put that tax increase into effect.

It has been my experience that if I am trying to get a bill passed and some Senator has a suggestion about how the bill might be improved upon, if we take that Senator's amendment, he usually will go along and help us pass the bill. If he is denied the right to put his suggestion into it, he is not going to help pass the bill.

If the Budget Committee is going to tell us, right down to the last word, the last comma and semicolon, precisely how that bill should be written, how much cooperation does the Senator think they have a right to expect from the Finance Committee when they tell us to try to pass that bill? They would be better off to try to pass it themselves.

Mr. NUNN. I can speak only for one Senator, but the Senator from Georgia, at least, is interested in the net figure. I am interested in seeing the process work, and the only way it is going to work is if we keep the net figures in mind.

I do not think we should tell the Finance Committee the line items. Those decisions should be made by the Finance Committee.

By the same token, I think it would be somewhat illusory for us to go through this bill without the assurance of the Finance Committee that if the tax cut is extended, which most people anticipate will happen, the Finance Committee is not going to go back to the drawing board and find some way to adjust its policies, its tax policies, so that the net figure really remains the net figure.

Mr. LONG. I say to the Senator that we sought the advice of eight great economists on about how to move with this bill. We did it with the benefit of the staff of our Joint Committee on Internal Revenue Taxation. Two of those great economists recommended that this tax cut should not be extended throughout the fiscal year, that it should be extended for a much shorter period of time than that. Two others recommended it be extended through 1977. Four of them recommended that it should be extended permanently.

One interesting thing. The two who recommended that it should not be extended throughout the fiscal year included Mr. Klein, who is president of the American Economic Association; the highly respected economist at the Wharton School of Finance, and the man Mr. Jimmy Carter, the Democratic front runner for President, chose as his economic adviser. That man said we should not extend this tax cut throughout the entire year.

As a practical matter, we really are extending the $17 billion throughout the entire year—not $17.3 but $17 billion—because, even though we make some savings in one area, the principal reason we are doing that is in order to accommodate some tax reductions that various Senators, both on the committee and in the Senate as a whole, have suggested to us. So the overall is just about what the Senate recommended anyway.

As a matter of fact, I am much more concerned about how the Committee on the Budget would react to a tax cut recommended by the committee to take place in future years, or after the end of the budget year. Under the budget laws that we have now, if someone wants to come up with a new program, like a tax credit for young people going to college, in order to get that passed under budget resolution, he has to put in an effective date to commence in fiscal year 1978, or after October 1977. So there are tax cuts going on into the future. Under this committee-recommended bill, the economy will not falter for lack of tax cuts.

Now, one can argue about what the mix ought to be. That is entirely a different matter—just vote for any amendment that your conscience dictates. I expect every Senator to do that. What I think we should try to avoid is the jurisdictional problem where a committee doing its duty as the good Lord gives it the light to see it is told that they are in violation of the law and the budget resolution, either the letter or the spirit, when they are, in good faith, trying to comply. I have voted against a lot of things I would have liked to vote for in considering this bill, to keep it within this $15.3 billion. On the effective dates that we have for the tax changes, practically all going into effect on January 1; I would much rather make them prospective to give people a chance to see what is going to happen to them before it happens. When we vote the other tax cuts, we make them effective in the future, when the tax increases go into effect, to meet these budget targets.

We have worked diligently to meet this budget figure and to try to comply with both the spirit and the letter of the law in this respect.

I submit to the Senator that I do not think any responsible committee—be it Appropriations or Finance or any other—can live with the suggestion that—let us say in a bill for $17 billion of tax cuts—they have no discretion about the $17 billion, any more than the Appropriations Committee could live with the suggestion that the assumptions were that they would spend every dollar of $17 billion in a category without any discretion whatever.

I think they would say, "Well, if we are not to be permitted any discretion, do not refer the bill to us to begin with."

That is what the legislative committees are there for. They are supposed to make these nitty-gritty decisions. They are the ones who are supposed to put the pieces together. If any Senator disagrees with it, then of course, he has the right to amend the bill and I clearly respect his right to do so.

Mr. CURTIS. Will the chairman yield?

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

Mr. LONG. In just a minute, because I see the Senator from Minnesota (Mr. MONDALE) on the floor. I think he has been a fine catalyst between the Committee on Finance and the Committee on the Budget to try to reflect in one the views of the other. If the Senator can express it for himself, I wish he would. I would like the Senate to hear his view about the matter and I hope he will state it before the debate is over. His view is that we are not in violation of the budget law, either the letter or the spirit of it. We have complied. He does not agree with the way we have complied. That is his privilege. He is offering amendments to make us comply the way he thinks we should.

Mr. NUNN. The important thing here for all of us, I think, is to separate the philosophical differences about this bill from the jurisdictional battle between the committees. They are two different things and if they spill over, the loser is going to be the budget process, in my opinion.

Mr. LONG. That is how I feel.

Mr. NUNN. I think we have to distinguish between the philosophical differences which all of us are going to have on any tax bill and the decision whether this indeed complies with the Senate budget resolution.

Perhaps by some amendment later on, after we have worked on it and think about it, we can make it clear, if this $2 billion disappears next year, that we are going to do something to replace that, unless the concurrent budget resolution has been changed.

I think that would relieve the minds of a lot of people who are trying to make the budget process work. I speak only for the Senator from Georgia.

Mr. BROCK. Will the Senator yield on just that point?

Mr. LONG. Yes.

Mr. BROCK. I want to point out to the Senator from Georgia, who is on the the Committee on the Budget, that the budget law that we did write and which is law does say, once that second concurrent resolution is passed, it cannot be violated at all. If you make a motion on the floor, it is subject to a point of order. The Senator from Georgia knows that, so in order to extend the tax cut beyond what it is in this bill, legislation would have to be enacted, and it would be subject to a point of order from the Budget Committee. There is not any way in the world that that $2 billion can be spent if the Senator is on the floor and does not want it spent.

Mr. NUNN. In other words, by the end of June 30 next year, if there is a bill that comes up to extend that and no change made by the Finance Committee to accommodate that, then a point of order would lie because it would exceed the second concurrent resolution?

Mr. BROCK. The Senator is correct and that is the whole point of the debate. I do not understand why the chairman of the Committee on the Budget does not realize just what strength he has in this law. He and I worked together to write it. We made absolutely sure that that law is rock hard with regard to the second concurrent resolution, which has to be passed prior to the fiscal year's beginning. That law says you cannot do anything to change these figures without an action of the Senate and it would be subject to a point of order unless the Committee on the Budget changed its own figures. That would take an action of the Senate at large. So the Senator is fully protected that we are going to comply with this law.

Mr. MUSKIE. Will the Senator yield?

Mr. LONG. May I first yield to the Senator from Minnesota, who serves on both committees, and I think has really done a great service to the Nation and the Senate in trying to make each see the viewpoint of the other. I yield to the Senator from Minnesota, if I may.

Mr. MONDALE. I thank the Senator. I have been in the unenviable position of serving on both committees.

It seems to me that there are two levels on which the Committee on the Budget operates. First, we make a recommendation to the Senate, which makes up our concurrent resolution, which sets forth revenue figures. Those figures, in my opinion, have been technically complied with by the bill reported by the Senate Committee on Finance. I think it picks up the revenue that the resolution required of us.

I do, however, think that there are some other functions that the Committee on the Budget has to fulfill, which come to the Senate in the form of recommendations. They are not binding, but they are recommendations and responsibilities imposed upon us that ought to be very seriously considered by the Senate in acting on the pending bill.

If I may have just a couple of minutes, I would like to say why I feel that is the case.

First of all, I am absolutely convinced that we will extend those temporary individual tax cuts come next July. I do not think they will expire. They are $9.4 billion, annually, of cuts that go to families of average income—and they work out to something like $180 per family. If we were to let them terminate next July, we would have unemployment and great unrest, and I do not think that anyone really expects that they will terminate. In fact, I think in our Finance Committee report, we sort of hint that they will be extended.

If I am correct on that, and I believe I am, it means that next year sometime, we are either going to have to increase the deficit or increase taxes or cut appropriations. Therefore, while we are in technical compliance, I would have much preferred to pick up revenue in other areas so that we might certainly extend those temporary tax cuts within the budget ceiling. I hope that is what we end up doing before we complete the work on this finance bill.

I do not think I have a right to have my way as a matter of rule or law, however. I think it is the power and force of the opinion of the Budget Committee and those who might join us which, I hope, will carry the day on the Senate floor in approaching the compliance with the resolution in a different mix of revenues—a mix which, in the crowding out process, would crowd some of the American people back into the bill and some of the super-rich back out of the bill. That is how I hope we do it.

Second, it seems to me that this budget process, to work, requires a good deal of comity between the Budget and the Finance Committees as well as between the Budget Committee and the other committees. The Budget Committee is required to make 5-year projections on the budget, and what we do by way of tax laws and how those tax laws spin out in the years ahead. These projections, once again, are not technically in the budget resolution, but the pending bill, as it is before us, could create tremendous problems for the Congress, for the Senate, in trying to resolve those issues and control the deficit in the years ahead.

Finally, of course, the Budget Committee has this responsibility of trying to deal with priorities. And if we give the budget process fairly clear authority in priorities over appropriations, but very little influence in terms of the way in which tax preferences work in the various categories of American life, we will end up in a situation where most of the restraint of the budget process is imposed upon appropriations and very little restraint imposed upon how we deal in the tax and the tax expenditures field.

So what I am saying basically is this. I do not think an argument can be made that the Finance Committee bill is not in compliance with the resolution. I think it clearly is. But I would hope the Senate, in looking at this finance bill, would help us come up with a different mix, one which picked up substantially more revenue from the so-called tax expenditures and permitted us in this bill to extend those temporary tax cuts—which, I think, we are going to do anyway—and to do so without breaching the budget ceiling which we have established, and without increasing the deficits that we projected over the years.

I think what we are confronting, what the Senate is confronting, is a question that we must face together, and I would hope that the compromise reform amendments presented by Senator NELSON and many of the rest of us would be adopted because, if they are, I think it would permit us to extend those temporary individual tax cuts.

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

Mr. LONG. Let me make clear, as the Senator suggested, I do not expect to support Mr. MONDALE's amendment or the ones, most of those, that he will be supporting. But the point he makes is what I had in mind, and that is that every Senator should vote for whatever mix of taxes and tax increases and tax cuts his conscience dictates. By the time we get through we ought to see to it that we do not violate this $15.3 billion overall figure, and I will certainly try to keep within that limit.

But there is no jurisdictional problem involved here. We have not violated the budget resolution. We live within it the way majority of the committees think you should live within it. It may be that after we get through discussing this matter the Senate may want to change that rule, and that is their privilege. But all I am saying is that we are living within the budget resolution. We want the other side to live within the budget resolution; we want Mr. MONDALE to live within it, and he proposes to do so. We want Mr. NELSON to live within it, and he proposes to do so. We want those who do not agree with us to live within it just like we do, but we respect their right to support the mix which they think is wise in their conscience, and we propose to do the same.

I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished chairman.

I wish to propound just a few questions to him that I think will clarify the situation a little bit. But, in preface, I want to point out this huge bill received a great deal of attention from the Finance Committee, 4 weeks of hearings, usually all day, about 3 weeks in executive session to write it up.

No one in this Chamber knows more about the revenue end of our Government than the distinguished chairman of the Finance Committee, and I would like to ask him these questions: Is there any resistance on the part of the chairman or of the Committee on Finance to accepting and being bound by the target figures in the budget resolution?

Mr. LONG. Not the least bit.

Mr. CURTIS. Is it not also true that if we accept the position that we are bound by the assumptions of the Budget Committee in arriving at the target figures that that, in essence, is determining the content of the tax bill——

Mr. LONG. In advance.

Mr. CURTIS. In advance, without hearings, without hearings in detail.

Mr. LONG. That is correct.

Mr. CURTIS. Such as the public is entitled to in a bill of this size?

Mr. LONG. That would amount to deciding in advance, without hearings, without consulting all those people who might be affected by it or letting them have the opportunity to explain their position to the Finance Committee. That would also mean we just might as well say that in the tax reduction area we had no power to grant any relief to anybody.

Mr. CURTIS. It is the opinion of the junior Senator from Nebraska that the requirement of the report is a matter of providing information to the Senate as to how they arrived at the target figures when they considered the budget resolution. Does the Senator concur in that?

Mr. LONG. Yes, I do.

Mr. CURTIS. I think so. It is necessary that we know what the assumptions are so that we know how they arrived at $15.3 billion instead of $12.6 billion or zero deficit. But if the Finance Committee is to say, "Yes, we are bound by their assumptions," then ahead of time

the content of the tax bill has been determined without hearings, without an opportunity for the people who pay the bill to be heard.

I believe that to follow such a procedure goes far beyond any prestige or power of any committee. It would be a bad practice, a practice contrary to the tradition of hearings, of tax experts testifying, of long days and weeks in going into these matters.

I also believe it must be conceded that if the assumptions of the Budget Committee are binding upon the Finance Committee, and thus determining the content of a tax bill——

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

Mr. CURTIS. I will be happy to yield as soon as I finish this sentence—that likewise the assumptions of the Budget Committee are binding upon the Committee on Armed Services to determine the content of what our expenditures for the Armed Services are to go forth.

I do not believe we can centralize the authority in that manner and serve the cause of good government.

That is why I say this goes far beyond the practice, the power or the prestige of any committee. It is a dangerous practice if we start in centralizing in one committee all of these decisions. Granted that some of the ablest Members in the Senate serve on this committee, but, after all, there are only 365 days in the year, and there are only 24 hours a day, and the authority to work on details to decide what shall be included to meet the target should belong to the traditional committees, and to rule otherwise is a backward step in the government of the people.

I now yield. I do not have the floor.

Mr. LONG. I yield to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, in response to the Senator from Nebraska, let me call his attention to page 11 of the Congressional Budget Act of 1974. I read this last night into the RECORD, but it makes a point that what the Budget Committee did is strictly in accordance with the law. The report we wrote is mandated in the law passed in 1974.

It says at the bottom of page 11:

> On or before April 15 of each year, the Committee on the Budget of each House shall report to its House the first concurrent resolution on the budget referred to in subsection (a) for the fiscal year beginning on October 1 of such year. The report accompanying such concurrent resolution shall include, but not be limited to—

And they list a whole series of things, including:

> (1) a comparison of revenues estimated by the committee with those estimated in the budget submitted by the President;
>
> (4) an allocation of the level of Federal revenues recommended in the concurrent resolution among the major sources of such revenues;

That is all the committee was doing, following the law.

That is the point I was making yesterday in the record that the Senator from Louisiana referred to.

This report is required by law, that is what I was saying to the Senator.

Mr. CURTIS. It is required by law, we do not dispute that.

Mr. BELLMON. Then the Senator is saying we are trying to write this, but we will not be doing what the law requires us to do?

Mr. CURTIS. No, we are not quarreling with what was put in the report.

Mr. BELLMON. Then what are we quarreling about?

Mr. CURTIS. Just this, that it was required to go into the report for the information of the Senate, so we could make an intelligent decision on the resolution.

We are bound by the resolution, but we are not bound by those assumptions. The material in the report was required in order to inform the Senate how they arrived at the target figures, not to foreclose the legislative process that ordinarily would follow thereafter.

Mr. LONG. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator.

I think we lose sight of what the budget process requires. The Senator from Nebraska (Mr. CURTIS) a moment ago said to rule otherwise would be to establish a bad precedent.

I do not think we are ruling.

As the Senator from Maine indicated a while ago, the entire budget process requires the affirmative assent of the entire body. It is not up to the Budget Committee to tell the body of the Senate what to do. The Budget Committee cannot do that.

The Senator from Georgia a moment ago was making reference to subsequent Senate action that would change the figures and what happens then?

Well, I think it is very clear in the Budget Act that the Senate is not bound by the first concurrent resolution. The first concurrent resolution establishes targets which all other committees are bound to try to meet. But the Senate is free to vary it. All they have to do is change it. All they have to do is take action that is inconsistent with it.

The Senate is not bound until we get past the second concurrent resolution and then we get into the ability to make points of order that then would have to be suspended by the Senate.

But all the Senate has to do, if it does not like the first concurrent resolution, is take action inconsistent with it.

I think the Finance Committee has acted within the confines of the first concurrent resolution. I agree with the Senator from Minnesota when he says that if we disagree with the action that has been taken by the Finance Committee, the Senate is perfectly free to vary that mix of taxes and make a different judgment, just as we could vary the number if we wish and then come up with a conforming resolution in the second concurrent resolution, which then becomes binding upon future action of the Senate.

I do not think this is a jurisdictional battle. I do not believe it is a confrontation between two committees trying to dictate what should be done because the Budget Committee presents one set of facts and recommendations to the Senate. The Senate acts upon it. Then the Finance Committee, within the confines and the guidelines of the first concurrent resolution, makes its recommendation.

Again, the Senate as a whole acts upon those recommendations—accepts them, rejects them, modifies them.

That is what this entire budget process at this stage is all about and it is not that kind of jurisdictional battle.

Mr. LONG. Let me make it clear; I know we are not bound by it, but I would be perfectly content to be bound by it. That is no problem. If it were subject to point of order, I merely contend the point of order would not lie for the simple reason we have complied.

I think to complete the picture for the benefit of all Senators, I would like to ask a few more numbers be put on the blackboard.

What the committee recommended also went beyond what the Budget Committee figures had in the book, but it is still within the report.

What the Finance Committee recommended, tax cuts $17.5 billion. Tax increases, $2.5 billion. Net reduction, $15 billion.

Now that is within the budget resolution.

Mr. President, just let me make one more point that I think is very important to the Senators.

If the Finance Committee had no right to vary one provision in that $17.3 billion of the existing tax cuts, if we had no right to recommend a change from that, then neither does any Senator have a right to recommend a change.

Does the Senate want to bind itself to that?

I would think any Senator might want to offer his amendment and say, "Here is something I think is a good idea, and I would suggest we do something about this matter because this would help families who are very hard pressed."

Then he can offer his amendment. If the Senate agrees to it, that should be reconciled with the budget process, and at this time it would not be subject to point of order.

But, even so, I think by the time we are through, we ought to first reconcile that bill to a $15.3 billion figure here on the floor, or we ought to commit ourselves that what we come back with from conference will not exceed that.

Mr. DOMENICI. Will the Senator yield?

Mr. LONG. Yes.

Mr. DOMENICI. I agree with two Senators who have spoken here in the last 8 or 10 minutes.

I think the questions of the distinguished Senator from Georgia (Mr. NUNN) are very relevant to what the Senate has to consider. I also agree with Senator McCLURE, that we are not talking about jurisdiction, that we are not talking about anyone violating the law.

But let me explain to the chairman of the committee how I view this.

I remember distinctly the morning the Senator appeared before the Budget Committee to talk about this $2 billion figure that is really as much at the heart of this dispute as the $17 billion extension, as I see it.

I can remember quite vividly that the Senator, as the chairman of the Finance Committee, was very dubious as to whether or not the Finance Committee could develop a bill, a tax bill, that would accomplish the $2 billion figure that we are talking about by way of cutting out on tax deductions, and the like, to increase revenues.

That is what the Senator told us, that he thought it would be difficult. He explained the philosophy and the theory.

I want to say this to the distinguished chairman of the committee, who has far more experience than I, and certainly, has a great responsibility here today, that this Senator as a member of the Budget Committee thinks it would have been a far better approach to have come to the floor and said: "You asked us to, you suggested it, you recommended it"—whatever word you want to use, because there is no question that we cannot order you to.

If the Senator had come and the Finance Committee had come here and said: "It was a good thing, but we could not do it, we do not recommend it," I think it would describe where we are.

The Senator did not do it, the Senator could not do it, the Senator is not recommending it.

But when the Senator says: "We are totally in compliance with the budget resolution, with the $15.3 billion or the $15 billion figure," it appears to me, and I will at least make this point, that that is saying that we did not do some of the things we were asked to do, but we are still in compliance.

I do not think that is true. This Senate can decide unequivocally that the Senator is right, that the Finance Committee is right, that we could not prudently, in this economic condition we are in, find that $2 billion. I think the Senator should have told us that.

I do not think he should have put in a figure that says: "They are here for a year but they are gone in the next year" and then say, "When you add these up the way we have mixed the $17 billion, we have the same situation that the budget resolution and the spirit of its report recommended to this body."

A little while ago the distinguished Senator used an analogy. He said:

> If you could dictate to the Armed Services Committee and down came a resolution saying there were not to be any airplanes—

Does the Senator recall that example? He left one thing out of that example. He forgot to say that that resolution and that report, explaining why they were left out, came to the Senate for a vote. That was not in the analogy of what might happen.

If it had come to the floor of the Senate, there was only one item within a function and it happened to be airplanes, because we only had one thing in our military arsenal, and under the military function that was all there was. We cut the figure in half which meant we were just going to keep the airplanes we had with no new ones and this body had voted that target figure. Then I submit the Armed Services Committee would have to go and try to do that. But it would only try to do that.

Then they could come back and tell this body in the bill, like the Senator's bill:

> We told you we could not live without any new airplanes. You put it in anyway. We are back here asking you for 300 new airplanes. We hope you will agree that we have to violate if not the technical target or at least we cannot quite do what was recommended.

I am not saying what was dictated, I am not saying what was a matter of law, but they could not quite do what was recommended.

That is how I see it. I think it would have been far better if the Senator had told us that. I think I could have accepted it.

I will say to the distinguished Senator I do not want to be put into the position, and I will not be, that because we recommended the $2 billion figure we are talking about I am committed to support anyone's package over the Finance Committee's that will get that. I think that is my prerogative.

To some extent the Senator is saying, "Here is one way." There are those who will be saying, "This is not in the spirit of the Budget Resolution. Let us put it in some way."

The Senator will have to argue what damage it does to the economy, and the kind of innovations in this bill that will not fit.

I think that is totally the prerogative, and violates nothing of the past traditions of the Finance Committee.

Mr. LONG. Let us talk about what the situation is and then talk about what the situation might be at a different point, because there is some difference.

The Budget Committee was to recommend $17.3 billion.

They thought we were going to recommend $2 billion in tax increases. We recommended $2.5 billion more than they recommended. The figure comes out below their figure, at $15.

As far as the overall figure is concerned, I do not think there is anyone here to complain about it. There is absolutely nothing to argue about.

Now let us get to the next point, something that will require further debate and the Senate will have to deliberate it further in the future. We do not have to decide it now, and I would just as soon decided it later. If we can make one right decision, maybe we can make another correct one later on. I will settle for one right decision now.

Let us take the airplane example, which I gave.

If we do not think there is any place for a manned bomber but just think it is obsolete, the Budget Committee, feeling that, would like to put in a resolution——

Mr. BELLMON. The Budget Committee does not get into line items.

Mr. LONG. Hold on a minute. The example has been made. I insist I have the floor and I would like to explain it.

Suppose on the matter of airplanes the Senator thinks the whole thing is a big waste of money and would bankrupt America for no good purpose, and then the Budget Committee thinks we should not do anything more along that line. I think it would be a mistake for the Budget Committee to put in their assumption that there should not be any more airplanes put on order, built or bought, because they are obsolete if the Armed Services Committee does not agree with that.

Then we are in the process of trying to mandate a committee that does not agree with someone to do something they do not agree with. That is a great frustration and a waste of time.

What ought to be done, if that is how someone feels, is to take those people when they submit their authorization or their appropriation and fight against the item that makes it possible to put these airplanes on order. Then it must be decided up or down, one way or the other.

For example, if the Budget Committee in the area of our jurisdiction wants to tell us, "Look, we think the figure ought to be $15 billion but you ought to put x amount of taxes on, then you ought to put a particular kind of taxes on, and then you ought to have a tax cut that goes beyond that figure—so you are not giving us one figure but you are saying to do two or three different things," I doubt very much that that is the way we ought to work, and I doubt that is inside the budget process.

It seems to me that any time anybody, be he a Senator or a Senate committee, tries to make somebody else do something he does not agree with, that is just a great big waste of time.

When I was an officer in the Navy, if I could not get a seaman to do something, I would do it myself rather than press those fellows all the time to go out and paint the boat. I would rather paint the boat myself. It would be easier to do it than to ask somebody to do it.

Senators will find, as a Senator or as a committee, that it is easier—rather than the Budget Committee trying to tell some committee to do this, that, and so on—just to give the figure, tell them how it was arrived at, and then if a Senator does not agree, offer an amendment to the bill. But I do not think that should be done as a committee. I think it ought to be done as an individual.

Mr. DOMENICI. Will the chairman yield?

Mr. LONG. Yes.

Mr. DOMENICI. The chairman knows I did not intend my example to indicate a line item approach by the Budget Committee. The chairman used the example and I followed it by saying he forgot we would have voted on that issue. I inserted that and I very carefully limited my example to an imaginary function in this budget that had nothing in it but airplanes. There are some functions where there are only two or three items, where it would be clearly discernible that, when they recommended the figure, they did not have something else in it because there is only one item in it.

I was using that as an example of a target, saying obviously when the Senate votes on that they know what is in that target.

I used that because the $2 billion is very specific in here, and the amount of taxes to be reduced is very specific.

When we voted, we had a clear opportunity to vote on the resolution and to have read the report and take its recom-

mendations. That was a vote of this institution.

I only used that as an example to say that there is an ingredient that occurred in between that was voted upon. I would rather have had the Senator say, "We cannot live with it" because I do not think he lived with the report and the resolution. That does not mean that I might not support it, but I say he did not and I say he did not violate any law. I just say he should have squared with us and said he could not. That is what I said.

Mr. LONG. I told the Senator in the beginning I thought he would have to give us one figure. That is what I said. That is what I believe now. That is what he did give us in that resolution. He gave us one figure.

I do not think any Senator can bind another Senator by something that he says in a speech or in a committee report. I could not make a speech to commit any one. I could make a speech that commits me, but I cannot commit some other Senator.

In our committee report we can say something which pretty well commits the Senate Finance Committee to a position, but we cannot commit some other committee to a position. Those are the kinds of things we should be aware of.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. LONG. First, I must yield to the Senator from Tennessee.

Mr. BROCK. I would like to make a couple of points in response to the statement of the Senator from New Mexico.

First of all, to clarify the record about whether or not we are going to come in and say, "Well, we could not meet your quota," we went into this process wanting one figure, a net figure. We proposed one figure to the Budget Committee.

We proposed to the Budget Committee one figure, and they said, "No; break it down a little bit."

OK, we did. We gave them $2 billion for capital formation, $17.3 billion for personal tax cut extensions. They struck out the capital formation without any considerable debate. Then they said, "In crease taxes by $2 billion on capital"—a $4 billion swing—with virtually no debate, with not a bit of hearings, and then they criticize us because they say we did not meet these functional descriptions.

We did exactly what we went in there and said we were going to do. We met the target figure. We are right on the money. We did better than we were asked to do. Instead of saying, "We could not meet your target," I do not agree that we should say that. I think we have met the target.

Speaking for myself as one Senator, I think there is a very good question whether we should continue this tax cut extension next year. We are going to get unemployment down, and we are going to get inflation down, and have a massive deficit that could really crank up the inflation; so I think there is a heck of a question as to whether we should extend this tax cut even to 1977, much less beyond July 1.

As far as I am concerned, this is an absolutely honest statement. As I pointed out to the Senator from Georgia, if anyone wants to hold our feet to the fire on the commitment we make here, all you have to do next June is raise a point of order when any tax cut extension is proposed at all, because we cannot do that without the consent of the Senate, without going back to the Budget Committee and getting them to change the budget resolution, or coming back to the Senate with a tax increase to offset it.

I think we might want to consider next year whether or not we should extend that tax cut, when we are faced with the kind of deficit we owe. We are going to have $100 billion in new debts put on the American people in the next 12 months. That is an intolerable burden, and it is a fair question for us to ask whether we are going to mortgage our children's future, rather than bear the burden today.

I say, as the Senator from Tennessee and not as a member of the committee, that this is an honest figure, and we are complying with every jot and tittle of the law as it was written.

I sat in on the writing of that law, and no one can tell me—the Senator from Maine worked on it, and he knows that that first concurrent resolution is nothing other than a target figure; that is all. Any of us can violate it at any time. We have to reconcile it in September, not now.

If we want to change these figures, we can do it. There is no binding law on us; we are in compliance with the resolution, and even if we were not, nobody can do anything about it until September, and you will have my support at that time.

Mr. JOHNSTON. Mr. President, I would like to ask the chairman what we would do if we agree with the budget resolution, that is, the $15.3 billion or whatever it happens to be, and do not agree with the report. What would one do?

Mr. LONG. I do not know anything you can do to amend the report. You can amend the resolution. In my opinion, if the Budget Committee wanted to require us to do a certain thing, and it could say, "Here is your $15.3 billion," you can do it this way, that way, or the other way. But you cannot offer an amendment to a committee report. That is not what is before the Senate to be legislated on. That is just an explanation of how the managers of a piece of legislation arrived at their conclusion.

Mr. JOHNSTON. So you would be utterly powerless to change what the Budget Committee's view of how you came up with that figure was; all you can do is change the figure in the concurrent resolution?

Mr. LONG. That is correct.

Mr. JOHNSTON. So, in turn, that means the only action the Senate has taken is the action on the concurrent resolution, which is the target. The Budget Committee does not make the target; it simply recommends a resolution which the Senate may accept or reject, and once accepted or rejected, that resolution becomes the target?

Mr. LONG. That is correct.

Mr. JOHNSTON. And not the Budget Committee report the committee recommended to the Senate?

Mr. LONG. That is true.

Mr. RIBICOFF. Mr. President, the Senator from Louisiana is absolutely correct, because the language in the resolution is controlling. The only time you go to the report is when you need to know what the resolution means, for an explanation of the resolution.

I am quite puzzled here, because we have really two of the most brilliant and constructive men in the U.S. Senate, the Senator from Louisiana and the Senator from Maine, and this has been a very heated discussion; and yet, as I listened to the debate, the Senator from Minnesota, the Senator from Georgia, the Senator from New Mexico, and the Senator from Idaho all seemed to understand what this is all about.

I think one of the difficulties that occurs here is, what did we actually pass?

I was on the Government Operations Committee, as were the distinguished Senator from Maine and the distinguished Senator from Tennessee. What came out of the Government Operations Committee was section 301(a)(3), requiring the Budget Committee to estimate revenue needs and their major sources.

Then it went over to the Rules Committee. The Rules Committee deleted "major sources."

As reported out of the Government Operations Committee, under section 301(a)(5), it also required the existing levels of the tax expenditures budget by major budget categories. But that was deleted when it came to the floor.

So when the Budget Committee tries to confine and limit the Finance Committee to tax expenditures, they are talking about something that never went into the final law, which was in the Government Operations Committee version but was not in the final version. What came out in the final version was 301(a), requiring, in the adoption of the budget resolution, 301(a)(4), the recommended level of Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased, by bills and resolutions to be reported by the appropriate committees.

So all it requires is the $15.3 billion, which the Finance Committee has lived up to, and then whether there should be any increases or decreases.

In the report, the Budget Committee came forth with their philosophy, what they considered should be the economic base for their resolution. They are entitled to their philosophy, but their philosophy is not binding on 100 Members of the Senate.

When the Finance Committee came out with its bill, in its report it came out with its philosophy. The philosophy of the Finance Committee is not any more binding on the actions of the Senate than the philosophy of the Budget Committee.

I think the great difficulty came about, because when the 15 Senators came up with their compilation of the amendments, they stated the Finance Committee was in violation of the applicable Budget Committee resolution mandating tax reform.

This got the Senator from Louisiana

hot, and out of that has come all the heat that developed in this entire debate.

I was not one of those 15 Senators. I was not going to say they were in violation, because I did not think they were. It just so happens I will probably vote with the 15 on probably every one of their amendments. I have disagreement with some small part of it, but basically I agree with them; and I am in the minority with the Finance Committee.

But the Finance Committee had a right to work its will, and the Finance Committee is not bound by the philosophy of the Budget Committee.

So we are now in a bind on a jurisdictional basis, when there should not be a jurisdictional problem between the Senator from Maine and the Senator from Louisiana.

I happen to think your objectives are the same, and the decision is not going to be made by either the Finance Committee or the Budget Committee. The decision is going to be made in the next 2 or 3 weeks in a debate on a series of amendments that will be addressed to different sections of this bill, and then a majority of the Senate will come up with its tax philosophy and its final budget philosophy.

I think this is what we are trying to achieve. I do not know what the argument is all about or why it has to be extended any further. I do not think it is a question of whether the Senator from Louisiana is right or wrong or the Senator from Maine is right or wrong. They are two gentlemen, two brilliant men who have different philosophies of what should be the tax bill.

One hundred Senators will be debating and voting on this measure during the next 2 weeks, and then the Senate will decide who they think is right philosophically, the Senator from Louisiana or the Senator from Maine.

But I think what we are trying to achieve in the budget resolution to me is clear, and I cannot understand what the hell the shouting is all about.

Mr. LONG. Mr. President, the Senator made a major contribution to this debate. I was not aware of the fact that in the legislative history in the legislation leading up to the budget resolution, because it did not happen at a point where I was participating actively in the process, that the idea of suggesting that the Budget Committee would recommend in greater specificity what the Finance Committee should do was considered and it was rejected.

Mr. RIBICOFF. No. The Government Operations bill was adopted.

Mr. LONG. Yes.

Mr. RIBICOFF. But this bill then went over to the Rules Committee and the Rules Committee deleted it, so then the budget law then reported back to the Senate and the Senate then adopted the provisions—in this instance it came out of the Rules Committee—and rejected what the Government Operations Committee had adopted. So therefore, the Government Operations Committee specified that they wanted the Budget Committee to talk about from where the major sources of revenue would come. It also set the existing levels of tax expenditure. But the Senate deleted that.

If the Government Operations bill had become law, then what was in the report could have very well been part of the resolution. But that was not what the Senate finally adopted. The Senate did not adopt the original bill that came out of the Committee on Government Operations.

Mr. LONG. The Senator made the same point I have in mind. This matter was considered, as to whether or not the Finance Committee was to be instructed in greater detail, and the answer was that they should not be.

Mr. RIBICOFF. They should not be.

Mr. LONG. They should not be given a single figure.

Mr. RIBICOFF. It should not be. And I think the Finance Committee held numerous days of hearings, heard many witnesses, and when it came to taxes I am sure heard many more witnesses than the Budget Committee. The Budget Committee has its job and is doing an outstanding job. The Budget Act, I think, is one of the major reforms in the history of Congress, and I think the Senator from Maine is about to propound and propose, and I hope the Senate adopts, a major reform in zero budgeting. The work that he has achieved has been landmark work in the entire history of the U.S. Senate.

But there is no question in my mind that it is intended that the Finance Committee should make its decisions when it comes to taxes, what tax proposals should be, and where there should be tax increases and tax decreases. Generally, I am in the minority on the Finance Committee as to where those tax increases and decreases should be. I will vote accordingly when amendments are brought to a vote in the Chamber. But I reject completely and totally that any other committee but the Finance Committee is going to make the decision. The 100 Senators do not have to abide by it. They can change that. But the Finance Committee certainly has a right to do what it does, and I think the Finance Committee was in complete compliance with the requirements of the first resolution of the Budget Committee.

Mr. LONG. I thank the distinguished Senator. I yield the floor, Mr. President.

(Mr. STEVENSON assumed the chair.)

Mr. McCLURE. I shall make one point in regard to the colloquy that has taken place up to now. That is on the question of whether or not the tax cuts will be extended next year. Whatever action the Senate takes now ought to be the best judgment that we can bring to bear and the best judgment that we can make about what will be done with regard to tax cuts.

If, as a matter of fact, we think tax cuts will be extended for the balance of that fiscal year we ought to vote that way now. If we think that they will not be extended we ought not to vote that way now. We ought to vote on the assumption that they will be permitted to expire. So whatever action we take should not be based on the presumption that later on we will take a different action.

We have to make the best judgment that we can possibly make now of what will actually occur affecting those tax revenues during that fiscal year.

It is fallacious to argue that when we get around to the next year we are going to extend them but we are going to act now so they will not be extended. That would be the sheerest hypocrisy on the part of this Senate, and it would totally defeat the entire purpose of the budget process.

I hope that when the Senate votes, whether we have that issue directly before us by way of an alternative proposal which we can vote up or down, or whether we have the package that includes the partial extension but not the full extension of the tax cut, we will vote with a full expectation that whatever action we take will be continued for the entire period of the fiscal year upon which we are now embarked.

Mr. MONDALE. Mr. President, I earlier responded to some questions put to me by the distinguished chairman of the Finance Committee. I would like to expand for just a few minutes if I might.

I think what bothers some of us who are proposing this range of tax reform measures under the leadership of Senator NELSON is the mix that we find in the Finance Committee bill. There are many provisions in that bill that I strongly favor. Many of them are my own proposals. But I think it is virtually certain that the temporary tax cuts that are proposed to be terminated on June 30, 1977, will in fact be extended beyond that date. It is impossible to believe that that would not be the case.

Those temporary tax cuts amount to about $180 for every family in America. There are two alternative temporary individual tax cuts in that package proposed to expire next year.

The first is a $35 per dependent tax credit against one's individual income taxes.

I think that is a beginning of an important new principle in tax law, one where we shift away from the exemption which delivers more relief to persons of great wealth and very little relief to families of modest wealth and does little to reflect upon the difference in family size.

The second provision is the provision that permits taxpayers to credit against their taxes 2 percent of their adjusted gross income up to a maximum of $9,000 income. And that is principally designed to help the single taxpayers or taxpayers with small families who do not receive the same amount of relief from a $35 credit as they would from the 2 percent credit against their taxes.

Those two provisions cost the Treasury about $9.4 billion a year. The effect of terminating those cuts would be a disaster, in several different ways.

First of all, these families of modest means would find that, on the average, $180 would be taken from them; and in many families of larger size, it could be substantially more than that. These are the very families now most sorely pressed by inflation, of modest income, who need that money worst. To permit those tax cuts to expire is irresponsible, it seems to me.

Second, according to the economists—there would be a disastrous loss of employment in America, because the reduction in purchasing power and demand of $9.4 billion annually would cause at least 200,000 jobs to depart from the job market. At a time when we still have impressive unemployment—if you consider discouraged workers, we may have up to 10 million unemployed in America—the idea of pursuing a policy which overnight would force some 200,000 Americans out of the job market is something that I cannot imagine Congress doing. Indeed, I am quite convinced that the Finance Committee does not really expect those temporary cuts to expire next year.

On page 118 of the committee report, it states:

> In early 1977 the committee plants to review the economic situation to see if a further income tax cut is appropriate.

What happens if we pass that bill, as I am sure we will at that time? I expect that before June of next year, Congress simply will add another $1.8 billion to the deficit.

So in that sense, the full cost of this bill—if I am right in those assumptions—is not reflected on its face. The full cost has to reflect an additional $1.8 billion that Congress will add sooner or later, and I think the sooner the better.

Thus, while the Finance Committee bill is in technical compliance, I think that, as a matter of policy, the Senate would be well advised to extend both temporary cuts now, in this bill, as I am sure we will do shortly in any event, and then, through tax reforms and as proposed by the Nelson amendments, pick up the revenue we need to be consistent with the first concurrent resolution.

I believe that, not only from the standpoint of the social equity and the standpoint of wise macroeconomic policies leading toward full employment but also in terms of tax equity, it makes a good deal of sense.

We will be debating later the details of the Finance Committee bill as it is before us, but I think it is fair to say that many preferences, credits, and deferrals are found in that bill which can be repealed or amended or modified, and we can pick up the modest amounts we need. And that can be done without in any serious way interfering with the capital needs of business in America today. It seems to me that it makes much more sense to have that kind of policy mix in the Finance Committee bill than that which is predicated upon the termination of these essential, personal, temporary income tax cuts that otherwise would expire next year under the Finance Committee bill.

Finally, it seems to me that, while the Budget Committee report is not binding upon the Finance Committee, the Senate should seriously consider the wisdom of the pending measure in the light of some other broad policy questions with which the Budget Committee and the full Senate must deal. The budget process is, above all, a process designed to set priorities. I do not believe that we can deal rationally with the budget for housing or welfare or health or retirement or with many other areas of the budget without considering the counterpart aspects of the tax budget as well. That is why the act requires the Budget Committee to state tax expenditures, to develop ways to coordinate tax and direct spending programs, and to report regularly to the Senate.

This year, Congress developed a very tight budget which restrained the normal growth of spending programs, programs that depend upon appropriations and Federal credit policies. The $2 billion tax reform target establishes a counterpart 2-percent reduction in the $105 billion tax expenditure budget. This is an important budget priority which I hope the Senate will retain. If it does not, what we are saying is that the only way the Budget Committee and the Senate can restrain spending is by putting all that pressure upon expenditures that appear in the budget in the form of appropriation, and not upon those that will appear in the form of tax expenditures. If we establish that principle, I do not know how we can ever establish the kind of budgetary restraint we need.

(At this point Mr. DURKIN assumed the chair.)

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

Mr. MONDALE. I yield.

Mr. LONG. Mr. President, more than any other Member of Congress, the distinguished Senator is responsible for this provision, in my judgment, by which people would get a tax credit of $35 each, so that a family of 10 would get a $350 tax credit and a family of one would get $35.

I supported the provision. If, consistent with other objectives, we can find the funds to fund it, I would be pleased to see it remain in the law. The Senator knows, I am sure, that after we decided that, in order to meet the budget requirements, we would cause this matter to come to an end on July 1, 1977, we adopted a further amendment—and the Senator voted for it—to provide some relief to low income people. A result of that is that no one who uses the standard deduction would be disadvantaged by the expiration of the $35 tax credit unless he made between $12,000 and $15,000 in income, depending upon how many he had in his family. That, at least, is there to assure us that the low income people and even the lower middle-income people would not lose anything if the $35 tax credit expired.

The Senator voted for that, and I am sure the Senator would want the record to reflect that the committee, with his support, did undertake to see to it that if we do exactly as the committee had recommended, we would still protect the interest of the low income people and the lower middle-income people. It was modified so that it would be only those in the upper middle-income and the above brackets who actually would get the worst of it.

Mr. MONDALE. I did support that liberalized low-income approach offered by the Senator from Louisiana, which has not yet been added to the pending bill, as I have supported him in many other areas to try to bring some relief to the highest taxpaying taxpayers in America—the very low-income Americans. They are the ones who pay a high proportion of their incomes in excise taxes, real estate taxes, and payroll taxes. I strongly supported that, and I hope it will stay in the bill.

However, as the Senator knows, there are many Americans who are making between $10,000 and $20,000 a year who are as broke as one can be. While the Bureau of Labor Statistics may consider them Americans of great wealth and affluence, the truth is, if you bother to talk to them, that they are having an awful time making ends meet. They are trying to be frugal; they are trying to be careful with their money. By the time they get through with clothing for their children, paying for the cost of the House or apartment, keeping it warm, paying the cost of getting to and from work, paying for medical illnesses or the other adversities that are inevitable for the average family, even though the Bureau of Labor Statistics says that at $15,000 they are doing very well, they are awfully poor.

Then if you try to pay the other costs of going to college or vocational school, or any of the other expenses—a small vacation, maybe a night out at a movie—you are broke. I know the Senator from Louisiana does not disagree with that. I thank him for his continuing support of this tax credit idea, because the idea there is to move slowly away from the exemption which brings the greatest relief to the wealthiest Americans and very little to this group I am talking about and instead, through the credit principle, tries to bring real relief to persons of average income. It is my judgment, and I hope I can prevail on the Senate floor, along with many of my supporters, that this bill can easily be adjusted in a way to pick up more revenue from persons of substantial wealth and in that way extend those temporary cuts beyond the time specified in the Senate Finance Committee bill. I think we can do that and also keep the low-income improvements which the Senator from Louisiana suggests.

Mr. LONG. The Senator knows that there are a lot of different things we can consider. I do not support the LAL provision. I think that would be counterproductive and do more harm than good, for example. But on the other hand, I have a lot of sympathy for the approach of a withholding tax on interest and dividends. The Senator is familiar with my views on that. There are all sorts of ways that we might agree to raise more revenue, some of which the Senator and I might both support.

But we can see what the Senate wants to do and I shall cheerfully accept the Senate's judgment with regard to any of these items. I find tremendous appeal in the Senator's views, now and almost in all cases. He is a very able statesman and he has some very fine suggestions. I regret I cannot agree with him about the LAL; I think that there we have a difference. But it may be that by the time we are through legislating on this bill, there may be revenue suggestions that Senators will propose that I can support. I do think that at least we are approaching a meeting of the minds, and

I approve and applaud the Senator's view that the committee is in compliance with the budget resolutions, but this Senator does not agree with how we got there. Maybe we can work it out before we are through with the bill in a way that he would like better.

Mr. MONDALE. I thank the Senator for his comments. If the Senator from Louisiana would support us on our minimum tax proposals, we would be a long way toward that. I believe the Senator from Louisiana was the first author of the minimum tax. It was his idea that if a wealthy person could structure his income in a way that, through various preferences, he ended up with little or no taxes, we ought to have another net on the other end, called the minimum tax, which would, nevertheless, make that American pay something toward the cost of this society from which he enjoys so many fruits. So we passed a minimum tax around here and I think the bill, as it came out of the Senate Committee on Finance under the leadership of the Senator from Louisiana, called for a flat 10-percent rate against so-called preferred income.

Then, on the Senate floor, someone said, "Why don't we let them deduct the taxes paid on earned income against taxes that would otherwise be due against preferred income?" That passed on the Senate floor and the result was that, instead of a 10-percent flat rate against preferred income, it slipped, I think, to something like 4 percent. So if the Senator from Louisiana can help restore that to its former form and raise the rate a little bit, we would pick up a lot of good revenue.

Then we have another feature in here called the maximum tax. This is a tax designed to give something to somebody who already has everything and needs an additional gift, by extending a 50-percent cap on unearned income taxes, so that they could continue to enjoy great wealth, uninterrupted by a rate that exceeds 50 percent. If we could get rid of that maximum tax ceiling on unearned income, that is new to our tax law, that would pick up another $300 million. And I suspect that that family making $12,000 a year that needs some money to buy some shoes could use the money better than people who are at a 50-percent tax bracket in unearned income.

Mr. LONG. Mr. President, I do not have the slightest doubt that if we proceed under the assumption that the tax laws ought to redistribute the wealth so that those who are getting too little get more and those who are getting a very large amount, or at least more than the average, get less, we could do a lot of elevating upward with our tax laws. And we are doing quite a bit of it.

The Senator from Louisiana was happy to fight for the earned income credit, as it is called now. It had a different name when I introduced it with the cosponsorship of our dear friend, the Senator from Wisconsin (Mr. NELSON). I am happy to say that it is the law that poor people who do not make enough to pay us that income tax can get something from the Government to recognize all the indirect taxes they are paying, and also to give some consideration to the great favor they are doing this country, as little as they are making, to turn to working rather than just to live on welfare. I am happy that the Senator supported that. So we have done some things along that line.

This bill, I hope the Senator will keep in mind, far more than the House bill, is a good bill for the working poor, and we do a lot of things which will help those who have not had their share of this Nation's good things to have more of it. It is not as much as the Senator would like to see, and I will be disappointed if the day comes when Congress ever does as much for the low- and middle-income people as the Senator from Minnesota would like to see, because either we will have gone too far or the Senator will have discarded some of his noble objectives, and I would hate to see either one of them happen.

Mr. MONDALE. The Senator from Louisiana knows I strongly supported him in the low-income workers' tax bonus, because that is the sort of thing we ought to do more of. We were directing revenues back to Americans who are working, who have families, and who are too poor. If they got their pencils out, if they were smart about it, they would just quit and go on welfare; they would make more money. So we said that, out of appreciation for the fact that they are working and the realization that they are dirt poor, it is not fair to withhold that payroll tax—the indirect and direct payroll tax that they are paying—and penalize them. I am glad we were able to do that. I thought it was a good thing and I supported him and I am glad we were able to prevail over the House and the administration.

But there is another group of Americans, the low- and moderate-income level Americans, who are having a desperate time of it. I know the Senator does not argue with that. One does not have to spend much time with average families to know that life is getting very, very tough and inflation is making it much worse. Inflation is related to tax rates, throwing Americans into a higher bracket, so that people are not only earning less but being taxed more. So I proposed to shift this around so we funnel more relief on a permanent basis to families of average income. That is why I am hopeful that, before we finish work on our bill—and I hope we can soon get beyond what I consider to be the phantom issue, the relationship of the two committees, and get on to the merits of this bill—we can pass something that is consistent with an equitable solution and, hopefully, more tilted in that direction.

Mr. GRAVEL. The President, I ask unanimous consent that in the continued deliberations on this legislation, Bill Hoffman, Nancy Leonard, and Terry Adlhoch be permitted the privilege of the floor.

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

Mr. BELLMON. Mr. President, as every Senator knows the subject of taxation is complicated. And as evidenced by last night's discussion on the Senate floor, too often debate on tax matters only adds to the confusion, with rhetoric frequently getting in the way of understanding. The tax bill before us is extremely complicated. In fact, this bill before us can be thought of as being composed of two parts and I believe that the discussion of this bill will be facilitated if we think of the bill in these terms. One of the two pieces of the bill relates to an extension of the tax cut items originally implemented in the spring of 1975; the second deals with tax reform.

Both pieces affect the budget process. As part of the budget process, Congress adopted the first concurrent resolution for fiscal year 1977 only 1 month ago. This resolution did not focus on spending alone, for the Budget Act requires that the congressional budget establish a recommended floor for total revenues and the act also requires that the congressional budget be concerned with tax expenditures. The congressional budget established 1 month ago did recommend a revenue floor. And as part of the process of determining the appropriate revenue floor, the Budget Committee recommended that the tax reduction items which would otherwise expire June 30, 1976 be extended through fiscal year 1977. This point was explicitly stated in the committee report and in the conference report which accompanied the resolution, both reports being mandated by the Budget Act. This action, to extend the tax reduction items, was felt necessary to insure that the economic recovery, now just over 1 year old, would continue at a controlled rate throughout fiscal 1977. This was deemed to be an appropriate fiscal policy. By an overwhelming majority, the Members of the Senate approved that fiscal policy.

This tax bill reported by the Finance Committee takes a different tack. One of the major tax reduction items, the $35 per person tax credit is extended only for 9 months of the fiscal year, to June 30, 1977, and then it lapses. Failure to extend this item the remaining three months of fiscal year 1977 raises $1.8 billion in tax revenues which would otherwise be returned to individual taxpapers. The effect on the economy of this action, however, is far greater than $1.8 billion. The lapsing of this $35 per person tax credit would cause individual income taxes to go up at an annual rate of $9.5 billion during the last quarter of fiscal year 1977. Make no mistake about it—the effective tax rates will go up next June 30 by an annualized amount of $9.5 billion if the Finance Committee recommendation stands.

A tax increase of this magnitude would have severe recessionary effects on the economy. It represents a fiscal course that is extremely volatile. And, importantly, it represents a fiscal policy that was not envisioned by the Budget Committee and the Congress in the first concurrent resolution.

The Congressional Budget Act in section 301(A)(3) assigns responsibility for fiscal policy to the Budget Committee and the Congress. In arriving at its recommendations, which were subsequently

adopted by the Congress, the Budget Committee clearly assumed continuation for the entire fiscal year of the tax reduction items which were so helpful in the economic recovery of the last 12 months. To have a $9–10 billion increase next June 30 is to have a fiscal policy markedly different from the one the Congress adopted.

It has been suggested that a final decision on the tax credit be postponed until next year, in order to have a better idea as to what the appropriate fiscal requirements should be. This suggestion is less than satisfactory because it generates uncertainty as to governmental fiscal policy—something the Budget Act was intended to guard against. It also results in unacceptable consequences of an on again—off again policy. In addition, if the tax credit extension question is postponed now and at some later point the credit is extended through the final quarter of fiscal year 1977, then the budget revenue floor will have been breached, and the budget deficit will be greater.

Last night, it was mentioned that the Finance Committee contacted eight economists concerning the question of extending or not extending various temporary tax cut items. Since economists seldom agree, I am not surprised that only four of the eight thought that the Finance Committee's decision to halt this tax cut item next June 30 was an appropriate step. It is not unknown for politicians to ask questions of economists; however, I have found that politicians use economists somewhat like drunks use lamp posts—more for support than for illumination.

Let me now turn to the second part, of the tax bill, the part dealing with tax reform. Congress sought to increase revenues by $2 billion in the recently approved congressional budget for fiscal year 1977 through tax reform. While not in the resolution, this revenue increase was explicitly stated in both the committee report and the conference report. The language was clear. Tax reform is an elusive concept. Over the years Congress has used tax policy for such perfectly legitimate purposes as assistance to an ailing industry, stimulation of savings and investment, encouragement of exports or pollution control, as well as for many other purposes.

The use of tax policy for accomplishing some of the above purposes has grown in practice to the point that we now have $105 billion dedicated to such items. What was suggested in the report on the congressional budget was that Congress reexamine this form of hidden expenditure and reduce this $105 billion by $2 billion, a reduction of less than 2 percent. Further, what was implicit in the recommended reduction in the $105 billion by $2 billion was that this $2 billion be a straight-forward number; that is, in a normal 12 month time period, whatever combination of changes is enacted—revenue gainers less revenue losers—should total a net revenue again of $2 billion.

The tax bill that we have before us is deficient in tax reform for two reasons: First, the net gain from tax reform in fiscal year 1977 is not $2.0 billion, but only $1.0 billion and second, the fiscal year 1977 net gain is itself an artificial gain produced by early starting dates for most of the revenue gainers and late starting dates for most of the revenue losers—the true impact of tax reform in this bill should be measured when all of the pieces of reform are in place for the same 12-month period and in this case we find that the true impact is not a net revenue gain but in fact a net revenue loss. This loss increases from $80 million in fiscal year 1978 to $263 million for fiscal year 1981. The tax bill is inconsistent with the recommendation of the Congress as evidenced by the report accompanying the first concurrent resolution on the budget for fiscal year 1977.

The first concurrent resolution contains targets. The accompanying report is an attempt by the Budget Committee to make explicit the assumptions and reasoning upon which the first concurrent resolution is based. Clearly, there is a difference between the recommendations adopted by Congress and those of the Finance Committee on the nature of the tax cut as well as tax reform.

It is my belief that the budget process is working. Within 2 weeks we will complete fiscal year 1976, the first year that the budget process was in place. Despite the most uncertain economic conditions in 40 years we will complete this year with Congress having lived within its budget. This is a remarkable achievement. I have every expectation that Congress will live with the discipline of the 1977 budget, but my fondest hope is that Congress will use the budget process to bring about a balanced budget and it is my hope that we will see that balanced budget within the next 2 to 3 years. But this tax bill will make the goal of a balanced budget even harder to achieve. With the effective tax increase in this bill, we run the risk of slowing or even stopping economic recovery next year thus increasing the deficit. Further, this bill hinders achievement of our goal of a balanced budget through the package of tax changes which reduce revenues in the fiscal year 1977, the very time we are striving to reach that balance.

I can only hope that the tax bill which finally passes the Senate will come closer than the tax bill before us now, to accomplishing the objectives of the budget process, a continuation of economic recovery and a balanced budget at the earliest possible time.

Mr. DOLE. Mr. President, the debate today is of major importance to every American taxpayer. The Committee on Finance has reported tax reform legislation which, by and large, charts a middle course between those forces who would preserve and expand tax expenditures without regard to their economic benefit and those who would immediately repeal all tax incentives with equal disregard for the economic detriment of such action.

On balance, I believe we have adopted meaningful tax revisions which will improve the Internal Revenue Code and lessen the public perception that the tax system is prejudiced against middle-income Americans. We have attempted to balance divergent interests by fashioning tax legislation which is equitable to all segments of the American economy—from low-income wage earners to large industrial corporations. By extending the tax reductions and by reducing tax expenditures by over $1 billion, I believe that we have not only complied with the first concurrent budget resolution, but also wisely rejected many so-called reform proposals, the main effect of which would be to stagnate economic recovery and further exacerbate our national unemployment problem.

THOROUGH REVIEW OF TAX INCENTIVES

It cannot fairly be charged that the committee casually ignored egregious loopholes in the Internal Revenue Code. Every major tax credit, deduction, or incentive was carefully reviewed by the committee. Those incentives which were deemed to be ineffective or too generous were cut back. Those deductions, credits, and incentives—loopholes, if you prefer—which were judged to be effective in encouraging important economic activities and sustaining high rates of employment were retained.

Let me be perfectly frank. Some taxpayers—including wealthy ones—will continue to receive favored tax treatment for certain types of investment. But I can assure you that I would not have supported the retention of any tax incentive if I was not convinced that the incentive served a valid national purpose—be it full employment, construction of desperately needed low- and middle-income rental housing, or development of domestic energy supplies.

THE BUDGET PROCESS

There has been considerable discussion about this tax bill and the budget resolution. The Senator from Kansas serves on both the Finance Committee and the Budget Committee. I would therefore like to share with my colleagues my views on the relationship between the two committees, the responsibilities of each, and the present situation.

TAX EXPENDITURES AND THE BUDGET COMMITTEE

The Budget Committee has expressed its concern over the large and growing level of tax expenditures. It is indeed the responsibility of the Budget Committee to assess the appropriateness of this level of tax expenditures—estimated to be in excess of $100 billion in fiscal year 1977—in the context of direct Federal expenditures and the overall Federal budget. A general knowledge and review of these tax expenditures in this broad perspective has led the Budget Committee to the conclusion that some of these expenditures are of marginal effectiveness in serving their intended purpose, or were intended for purposes of questionable merit. And no one doubts that such tax expenditures contribute to the size of the budget deficit. The Budget Committee therefore recommended a reduction in tax expenditures of $2 billion in fiscal year 1977.

The Budget Committee also recommended an extension of the income tax reductions through the full 1977 fiscal year. In conjunction with the level of Government spending, this extension of

the tax cut was essential to sustaining a strong economic recovery.

When combined, these two recommendations produced the revenue target—or floor—which was recommended to the Senate and subsequently approved in the first concurrent budget resolution.

THE BUDGET AND FINANCE COMMITTEES

At the same time the Budget Committee was formulating the budget resolution, the distinguished chairman of the Finance Committee advised against making explicit a recommendation for a $2 billion reduction in total tax expenditures. He indicated that the Finance Committee fully intended to carefully reconsider many tax provisions in order to change or eliminate those that are not sound. But he observed that the committee had only begun hearings on the House-passed tax reform bill, that tax reform was a two-way street—involving revenue losers as well as revenue gainers—that a $2 billion net revenue gain might or might not be realized.

Mr. President, the Finance Committee has done its job. We have carefully reconsidered a broad range of tax provisions in over a hundred hours of hearings and executive sessions. The bill as reported contains many significant and much needed changes in our tax laws. The Finance Committee attempted to change those provisions in a manner that is equitable and consistent with sound economic policy. As a result, over $2.5 billion in revenues will be recaptured by the Treasury.

But, as the chairman of the Finance Committee had cautioned, we also found many instances where equity and economic sense argue strongly for new tax expenditures. As a result, the net revenue gain—around $1 billion—falls short of what had been called for in the statement of managers on the budget resolution.

A DIFFICULT CHOICE

The Finance Committee therefore faced a difficult choice. We could report a tax bill containing extension of the income tax reductions for the full fiscal year and a revenue estimate that falls to meet the budget resolution target—it would fall short by about $900 million. Or, we could report a bill that modified the full year tax cut extension and did meet the revenue target. Our committee chose the latter course of action specifically in order to make clear our desire to meet the budget resolution targets and support the budget process.

Further, the chairman of the Finance Committee has stated that he believes that the tax cut recommendation in the Finance Committee bill is sound economic policy.

THE SENATE'S CHOICE

Mr. President, the distinguished chairman and ranking minority member of the Budget Committee have expressed their objection to the tax package reported by the Finance Committee. In doing so, they have clearly stated the choice that now faces the Senate.

The Senator from Kansas would like to emphasize that before us is a sincere difference in judgment as to the right tax package, and by implication the right budget package, for the economy. The budget process fully anticipated and was designed to accommodate situations and difficult choices such as this. It is my opinion that both committees have properly done their assigned tasks. It is now up to the Senate as a whole to resolve the issue on its merits. Whatever the outcome, neither committee has failed in its responsibilities, neither committee has infringed on the jurisdiction of the other, and neither the budget process nor the tax legislation process has been jeopardized.

FLOOR AMENDMENTS

Mr. President, numerous amendments will undoubtedly be offered—to further extend the tax cut, to further reduce or increase existing tax expenditures, and to reduce or increase new tax expenditures. The Senator from Kansas intends to judge each such proposal on its merits and with a view to what is implied for the economy and the overall budget deficit.

AREAS FOR REFORM

No one denies that tax revision is needed. The Senator from Kansas is particularly interested in revising the antiquated Federal estate tax laws. Reform of the Domestic International Sales Corporation—DISC—provisions is needed to bring that law more in line with the intended goal of encouraging American exports. Existing tax shelters which encourage wasteful investment by wealthy individuals certainly need to be restricted. And the minimum tax needs to be strengthened. I am pleased to have played a role in formulating these much needed changes in our tax laws during Finance Committee deliberations.

SCOPE OF REFORM

Whatever the outcome of the impending debate, I am hopeful that we can pass a meaningful tax reform bill this year. Too many areas of the tax code are in need of reform to let differences over the scope of reform stand in the way of congressional action.

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

The PRESIDING OFFICER (Mr. STONE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UP AMENDMENT NO. 60

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes unprinted amendment No. 60.

The amendment is as follows:

At the end of unprinted amendment No. 57, insert the following new section.

Section 106. The Secretary of the Treasury shall report to the Congress, within one year from the date of enactment of this Act, whether any tax shelter opportunities of a substantial nature remain after enactment of this Act.

Mr. McCLURE. Mr. President, will the Senator ask for the yeas and nays on his amendment?

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. CURTIS. Will the distinguished Senator yield?

Mr. PACKWOOD. I yield.

Mr. CURTIS. There are many Senators who are willing to stay, but I think it would be helpful to them if they had some idea of the schedule. What is the feeling of the distinguished Senator from Oregon in reference to a time certain for debate on the amendment?

Mr. PACKWOOD. I will frankly say what I have in mind. We debate some significant issues in this body without anybody to listen to the debates. I have asked for a rollcall vote on this amendment, to have all Senators come to the Chamber and vote. By 6:10 or 6:15 they have finished dictating in their offices and most of their staffs have gone home. If they will stay and listen to debate for 1 hour or 45 minutes, if they will listen for that time, I think we could have a motion to table, or have a time certain after debate, by 7 or 7:30, for a motion to table the Nelson-Hathaway-Mondale amendment.

Mr. CURTIS. I am directing the inquiry to the amendment just offered.

Mr. PACKWOOD. I am ready to vote on that amendment now.

Mr. HATHAWAY. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. HATHAWAY. Is the amendment an amendment to the substitute now pending?

Mr. PACKWOOD. That is correct.

Mr. HATHAWAY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATHAWAY. If the amendment of the Senator from Oregon prevails, the substitute is still open for further amendment; is that correct?

The PRESIDING OFFICER. That is correct. It is amendable.

Mr. NELSON. The yeas and nays have not been asked for on the substitute; is that correct?

The PRESIDING OFFICER. The yeas and nays have not been asked for on the amendment of the Senator, they have not been ordered on the amendment of the Senator from Wisconsin.

Mr. NELSON. Am I correct, I have a right to modify my amendment until such time as the yeas and nays are ordered on the substitute?

Mr. PACKWOOD. Mr. President, I have the floor; do I not?

The PRESIDING OFFICER. That is correct, or once it is amended or other action is taken.

Mr. PACKWOOD. Might I ask, who has the floor?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. Could I ask for the yeas and nays on the Nelson-Mondale amendment?

Mr. NELSON. Will the Senator yield so I may make a parliamentary inquiry?

Mr. PACKWOOD. So long as it is an inquiry, yes.

Mr. NELSON. That is what that was, a parliamentary inquiry.

Mr. PACKWOOD. I yield for an inquiry.

Mr. NELSON. My question remains. If the yeas and nays are ordered on this amendment and voted, do I still have the right to modify my amendment prior to the time the yeas and nays are ordered on the amendment itself?

The PRESIDING OFFICER. Not if the amendment of the Senator from Oregon is agreed to. Then the Senate will have taken action on the Senator's amendment.

Mr. NELSON. Senator EAGLETON has an amendment he wanted to bring up. I hope I am preserving his right. I wonder if the Senator would be willing to withhold his amendment and the yeas and nays until——

Mr. BROCK. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. BROCK. If I may respond to the Senator from Wisconsin, there is nothing to preclude the Senator from Missouri offering a subsequent modification as long as it is not a modification offered by unanimous consent.

The PRESIDING OFFICER. The Chair will tell the Senator from Wisconsin that it would take unanimous consent to order the yeas and nays on his amendment at this time. There are a number of amendments pending.

Mr. NELSON. It might be well to ask the distinguished Senator from Oregon if he will withdraw his amendment momentarily.

Mr. PACKWOOD. I would even be receptive, so long as we order the yeas and nays, to a motion to table my amendment.

Mr. NELSON. No, that is not my point. Senator EAGLETON wanted to offer his amendment. If it is objected to, which I do not think it will be, then I will modify my amendment to include it. But if we proceed and have a vote on the Senator's amendment and somebody objected to Senator EAGLETON's amendment——

Mr. PACKWOOD. What is the Senator asking?

Mr. NELSON. Whether the Senator would be willing to withdraw his amendment momentarily and allow Senator EAGLETON to present his amendment. If it is not objected to, fine; if it is, I would want to modify my amendment.

Mr. PACKWOOD. I would be willing, but I want the unanimous-consent agreement to have it stated that his amendment—is he planning to vote on it right now or does he just want it in so there will be a vote on it? I would not want his amendment to have any priority over the amendment I have offered, precluding the vote on this one.

Mr. CURTIS. If the Senator will yield, I must serve notice that I will object. We spent quite a while yesterday and all day today without really getting to a vote on this tax bill. There is a certain risk to all of us when we leave here. We waited until 3 o'clock today to resume work on this. We will have a hard time finishing it and going to conference by the deadline of the expiration of the taxes. We will have to have a great deal of work accomplished just because of the size of the bill.

With the recess coming up, I will be constrained to object to any delaying consents.

Mr. NELSON. Mr. President, I withdraw my request. The Senator from Nebraska took more time to object to what I was going to request than I would have taken if he had stayed out of it.

Mr. BROCK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I yield to the Senator from Tennessee.

Mr. BROCK. For the purpose of clarifying the point of the Senator from Wisconsin, I think he may have misunderstood the Parliamentarian or the Chair. Even if the Packwood amendment is accepted, voted on, and approved, there is nothing to preclude the Senator from Missouri from then proceeding to offer his amendment. It does not require unanimous consent to offer the amendment. It does not require unanimous consent to vote on it. It would require unanimous consent for the Senator from Wisconsin to modify his amendment, but there is nothing to keep him from offering the amendment and letting the Senate act on it.

Mr. NELSON. I understood that perfectly. I was only trying to preserve my right to simply modify my amendment and dispose of the matter in 10 seconds, instead of going through a lot of hullabaloo, having Senator EAGLETON have to get a rollcall, and wasting all that time.

Mr. BROCK. If it is a good amendment, we will not need a rollcall.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I am prepared to vote.

Mr. CURTIS. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. CURTIS. I shall support the amendment of the Senator from Oregon. I think it is a request for information that would be most helpful. There will be many Senators who will not agree with the answer that comes in but I think it will be helpful information.

Mr. President, I have raised my voice on this floor many times against motions to table because I felt that matters should be voted upon up or down on their merits.

However, I think we are facing a situation here tonight where we have debated the LAL at considerable length, and to make progress on the bill and meet our obligations by the time of the recess beginning on July 2, I would like to serve notice that if the Senate is still in session and has not otherwise disposed of the LAL at 7 o'clock, I shall make a motion to table.

I thank the Senator.

Several Senators addressed the Chair.

Mr. LONG. Mr. President, I hope the Senator will not insist on that, because it seems to me that the LAL provision is such a complicated provision, it is such a monstrosity, that Senators deserve to know what it is.

It was debated, and I think that Senators had a chance to hear a lot if they were on the floor, but they were not all here, so most Senators have not had a chance to hear the debate. This is such an important matter, I think Senators ought to acquaint themselves with what they are voting on before they vote on a matter of this sort. This LAL provision could put the Nation in a recession.

Mr. CURTIS. Mr. President, will the Senator from Oregon yield further?

Mr. PACKWOOD. Yes.

Mr. CURTIS. Out of deference to the chairman of this committee, who must carry the responsibility to get the matter disposed of, I withdraw my statement that I expected to move to table.

Mr. LONG. What the Senator from Oregon is trying to do is to get Senators in this Chamber to hear the debate. He wants to explain the LAL.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HASKELL. Mr. President, it might be helpful if we knew what we are about to vote on. I wonder if it would be possible for the Senator from Oregon——

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon to the amendment of the Senator from Wisconsin.

Mr. HASKELL. I appreciate that, but I do not have the faintest idea what the amendment of the Senator from Oregon is all about.

Mr. PACKWOOD. Mr. President, I ask that the clerk read it again. It is a short amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) offers unprinted amendment No. 60 to unprinted amendment No. 57, which is the Nelson amendment:

At the end of unprinted amendment No. 57, insert the following new section:

Section 106. The Secretary of the Treasury shall report to the Congress, within 1 year from the date of enactment of this Act, whether any tax shelter opportunities of a substantial nature remain after enactment of this Act.

Mr. HASKELL. Mr. President, I might, if I may, ask the Senator from Oregon, this seems to be a relatively innocuous amendment; does he insist on the yeas and nays?

Mr. PACKWOOD. I do, and I have been very frank as to the reason why. I am insisting on it so Senators will come over here, and I hope another 15 or 20 Senators will stay around to listen to the debate on the LAL.

Mr. LONG. Mr. President, I agree with the Senator, for this reason: By the time we get through with the debate on this bill, with its 1,500 pages if any tax shelter opportunities of a substantial nature still exist for people to get out of paying taxes, I want to know about it, as the Senator in charge of this bill. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD) to the amendment of the Senator from Wisconsin (Mr. NELSON). On

this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Utah (Mr. Moss), the Senator from Texas (Mr. BENTSEN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Ohio (Mr. GLENN), the Senator from Washington (Mr. MAGNUSON), and the Senator from Arkansas (Mr. MCCLELLAN), are necessarily absent.

I also announce that the Senator from Indiana (Mr. BAYH), and the Senator from Missouri (Mr. SYMINGTON), are absent because of illness.

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

Mr. HUGH SCOTT. I announce that the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

The result was announced—yeas 84, nays 0, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—84

Allen	Garn	Morgan
Baker	Gravel	Muskie
Bartlett	Hansen	Nelson
Beall	Hart, Gary	Nunn
Bellmon	Hart, Philip A.	Packwood
Biden	Hartke	Pastore
Brock	Haskell	Pearson
Brooke	Hatfield	Pell
Bumpers	Hathaway	Percy
Burdick	Helms	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
	Huddleston	Ribicoff
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Hugh
Chiles	Johnston	Scott, William L.
Church	Kennedy	
Clark	Laxalt	Sparkman
Cranston	Leahy	Stafford
Culver	Long	Stennis
Curtis	Mansfield	Stevens
Dole	Mathias	Stevenson
Domenici	McClure	Stone
Durkin	McGee	Talmadge
Eagleton	McGovern	Thurmond
Eastland	McIntyre	Tower
Fannin	Metcalf	Tunney
Fong	Mondale	Williams
Ford	Montoya	

NAYS—0

NOT VOTING—16

Abourezk	Griffin	Symington
Bayh	Hruska	Taft
Bentsen	Javits	Weicker
Buckley	Magnuson	Young
Glenn	McClellan	
Goldwater	Moss	

So Mr. PACKWOOD's amendment was agreed to.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

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

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of the pending bill, Mr. Joel Merkel and Mr. Keith Martin, of my staff, have the privilege of the floor.

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

Mr. BIDEN. Mr. President, I ask unanimous consent that Richard Andrews, of the Budget Committee staff, have the privilege of the floor during the duration of the debate on this measure.

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

Mr. CRANSTON. Mr. President, I ask unanimous consent that during the consideration of this measure the following persons have the privilege of the floor: Jack Albertine and Jerry Hill of Mr. TUNNEY's staff; Andrew Carron of Senator EAGLETON's staff; Jon Fleming of my staff; Hal Gross of the Budget Committee staff; Bill Pursley of Senator STONE's staff.

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

Mr. HUMPHREY. Mr. President, I ask unanimous consent that Mr. Tom Barnacle, of my staff, have the privilege of the floor during the debate on this measure.

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

Mr. FONG. Mr. President, I ask unanimous consent that Mrs. Parker, of my staff, have the privilege of the floor during the consideration of this measure.

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

Mr. PACKWOOD. Mr. President, will the Chair clarify whether a unanimous-consent agreement was entered into earlier in the day to the effect that any Senator who wanted staff members here could sign a list at the desk?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I will have to object to that.

Mr. PACKWOOD. It was agreed to several hours ago.

The PRESIDING OFFICER. The order was entered earlier today.

Mr. LONG. The agreement was that they could sign a list here, and we would send the names up to the desk. That was the agreement.

The PRESIDING OFFICER. That was the order.

Mr. PACKWOOD. Mr. President, while Senators are here, I might be able to give an estimation of the timetable so far as I am concerned.

We are on the subject of limitation on accounting losses or artificial losses, the LAL—call them what we will. We had some discussion this afternoon without too many people here, but I think that with some little degree of discussion, we might be able to get to a vote to table this matter before too long tonight. However, I will take a little time to relate the situation involving LAL and how it can affect every Senator if he were in private life or any of his constituents, in my mind, adversely.

The LAL is the first of a series of amendments being proposed by Senator NELSON and others to the Finance Committee package. The Finance Committe package had another way of handling the same situation, which in essence is what is being amended. The limitation on accounting losses, in essence, says that you cannot offset losses from a business against any income unless it is from the same source. The normal rule has been for years that if you invest in something and it has a loss, you can offset it against income from some other source. It has been a normal rule.

Under the proposal of Senator NELSON and others, if we adopt the LAL provisions, you will no longer be able to do that. I will give some specifics on what I am talking about.

Let us say that you are a young attorney and have a law firm—say, PASTORE and PACKWOOD.

Mr. PASTORE. Do not get me into it. [Laughter.]

Mr. PACKWOOD. We reach 30 years of age and we have been practicing for 5 years and have managed to save up $10,000 that we want to invest. So PASTORE and PACKWOOD mortgage their homes, borrow $90,000 from the bank, at 10 percent interest, and start to build a commercial building that might house a corner grocery store and a pharmacy or perhaps a gas station.

Mr. HUMPHREY. I will get in on the pharmacy. [Laughter.]

Mr. PACKWOOD. Hopefully, the Senator will not be retired in 3 years; but when he does, we will give him the corner lot. [Laughter.]

We start to build this about the first of April, and we build it in April, May, June, on through the year. We do not have any tenants until we finish it.

Now, in the 9 months since we borrowed the $90,000, we have spent, at 10 percent interest, roughly about $7 thousand in interest in real money. We have taken it out of our pockets and given it to our banker, because we borrowed money from him. We have paid real property taxes on that piece of property, money out of our pocket. These are not artificial losses and the tax collector and the banker will not take artificial checks. They want real money. So we are out $4,000 or $5,000 of money that first year, out of income. You cannot write that off your lawyer's income if you are a lawyer, or you cannot write that off a doctor's income if you are a doctor. You cannot write that off any income, unless you happen to be in the business that you are doing the investing in. If, instead of Pastore and Packwood, lawyers, it were Pastore and Packwood, realtors, and we are both 30 years of age and we have saved up $10,000 and we do the very same thing I have talked about, we can offset that loss against our income from selling real property. I ask the Senators, where is the fairness in that kind of procedure?

First, it is totally unfair to say that if you are in a business, you can write off your losses against your income in that

business, but if it is a perfectly legitimate business and you do not happen to be in it but you want to get in it, you cannot write off your losses. That is what this provision does. It applies to farming if you are in farming, it applies to real estate if you are in real estate, it applies to movies, oil—you have to be in the business. And boy, if you are in it and you are rich, you have a bonanza. Not only can you write off all your losses from your income in that business, you have a leg up because anybody not in it is not going to come in.

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

Mr. PACKWOOD. Yes.

Mr. CURTIS. In the Senator's hypothetical case, what would happen to his plans if he were denied his interest deduction? Would he go through with them?

Mr. PACKWOOD. Well, if the Senator means if I knew ahead of time that I could not take it?

Mr. CURTIS. Yes.

Mr. PACKWOOD. In all likelihood, I would not go into it.

Mr. CURTIS. Suppose the Senator did go into the activity. What happens, revenue-wise, by reason of the activity of building his building?

Mr. PACKWOOD. If I built a $100,000 building, I would probably put 45 people to work for 9 months and I would have an economic activity.

Mr. CURTIS. Including payroll tax.

Mr. PACKWOOD. Payroll tax, wages for the people that built it.

Mr. CURTIS. Income tax?

Mr. PACKWOOD. Yes.

Mr. CURTIS. And he may, in some instances, save on unemployment compensation and a few social or welfare items.

Mr. PACKWOOD. That is correct.

Mr. PASTORE. Will the Senator yield?

Mr. PACKWOOD. No, I am yielding to the Senator from Nebraska right now.

Mr. CURTIS. My quarrel against this limitation on interest paid is this: We should never limit a deduction for interest payment that goes into an operating activity that causes building or functions or things that create jobs. It might be debatable whether or not interest should be allowed without limit where people just buy passing investments in order to build up interest, but that is another debate.

Certainly, the Senator from Oregon is right that what he has proposed here could well result in a loss of revenue and, in addition to all the arguments the distinguished Senator has so well put, we have an impossible law to live under.

I thank the Senator for yielding.

Mr. PACKWOOD. I yield to the Senator from Rhode Island.

Mr. PASTORE. May I ask a question as the Senator's unwilling partner?

Mr. PACKWOOD. Yes.

Mr. PASTORE. Is the Senator defending the situation that we have today——

Mr. PACKWOOD. I am not.

Mr. PASTORE [continuing]. Of buying another company for purposes of a tax break and setting it off?

Mr. PACKWOOD. I am not.

Mr. PASTORE. The Senator is not doing that at all?

Mr. PACKWOOD. Not at all.

Mr. PASTORE. He is not touching that?

Mr. PACKWOOD. I am not touching it.

Mr. PASTORE. I mean he is not disturbing that in the least?

Mr. PACKWOOD. The Senator confuses me with that question.

Mr. PASTORE. Let me state it another way.

Mr. PACKWOOD. All right.

Mr. PASTORE. Is the Senator preserving the present situation that we have today, that you buy a business that is not allied to your own function and allowing yourself to deduct that loss from your own profitable business?

Mr. PACKWOOD. No, I am not. What the Committee on Finance has done, and the bill has six titles and we shall consider all six. When we get to title III, there is something called the minimum income tax. In that income tax, all of this so-called preference income is put and a certain flat minimum percentage is levied on it. It does not matter where your income came from, you cannot get around it, saying this is all my loss, this is all my income, therefore, no tax.

What I am saying is that I think this section ought to be defeated because I think it is unfair, unworkable, and immoral. It is when we get to the minimum income tax or alternative income tax—Senator BROCK is going to offer that—if we want to pick up more income, that is the way to do it. The minimum income tax that the Finance Committee has and what the House has proposed are only $100 million apart. It stops the very abuse the Senator is talking about.

Mr. PASTORE. Let me take it step by step if the Senator from Louisiana does not mind.

The Senator from Oregon is saying if he and I are in partnership as lawyers and we function as lawyers, but we decide to go beyond that—we want to build a building now—he feels that anything that is chargeable against that particular building should be deducted against our income as lawyers?

Mr. PACKWOOD. If he and I have a loss on the building?

Mr. PASTORE. Well, if we have a loss on the building, the Senator is saying that if we have a big profit in our law firm, we can deduct that loss from our profits as lawyers?

Mr. PACKWOOD. That is correct.

Mr. PASTORE. Well, I think it is wrong, so I disassociate myself as the Senator's partner.

Mr. PACKWOOD. What we have done, you see, we have not said that is wrong. We have said it is perfectly all right to deduct that if you happen to be in that business. If you want to be in the real estate business and build that building, even if these losses are theoretically wrong, go ahead and deduct them from your income. But do not try to get into that business if you are not in it, because then it is wrong to deduct it.

Mr. PASTORE. The Senator told me he can deduct that from his profits in his law firm.

Mr. PACKWOOD. That is right.

Mr. PASTORE. I think it is wrong.

Mr. PACKWOOD. Is the Senator from Rhode Island in favor of making sure that nobody can get into these businesses unless they are in it?

Mr. PASTORE. Oh, no, they can deduct the losses from the income of their allied business. I have no objection to that. If they lose money as realtors, that is all right; they can deduct that loss. But why should the Senator take that loss out of his profits from being a lawyer? What does that have to do with building a building?

Mr. PACKWOOD. Where have we ever before said, in the building of this country, that a person should be limited and should be given preference in one field of activity but we do not want him having the same preference that others have in other activities?

Mr. PASTORE. I do not agree with the Senator from Oregon.

Mr. HATHAWAY. If the Senator from Oregon will yield, I think he has inadvertently misstated the case. The person who is the lawyer who is investing in the real estate business and the person in that real estate business are in the same position. They both can take their losses up to the extent of the income from that business. If the person in the real estate business also has outside income, he cannot extend those losses to that outside income.

We are saying, for anybody involved in these six businesses that we are talking about under the LAL, they are limited in taking certain losses—not all losses; ordinary business deductions they can take, economic losses. But certain losses they cannot take beyond the extent of the income from that business, with the exception of the farming exemption, where he can use outside income up to $20,000.

It is the same rule for everybody.

Mr. PACKWOOD. No, it is not the same.

Mr. HATHAWAY. It is the same for the real estate man, the lawyer, the doctor, the dentist.

Mr. PACKWOOD. No, it is not. The man or woman in a real estate business who makes income from selling a house can go out and build that commercial building and offset the losses from that, unrelated to the normal buying and selling of real estate. If they are in the real estate business, they can offset those losses against their real estate income.

Mr. HATHAWAY. That is right, and the person who invests in that business, the lawyers and the dentists, can take those losses against any real estate income.

Mr. PACKWOOD. Not if they are not in the real estate business themselves.

Mr. HATHAWAY. They can take it from the real estate income.

Mr. PACKWOOD. But if there is no real estate income to take it from, they have to pocket the loss?

Mr. HATHAWAY. That is right.

Mr. PACKWOOD. And that is fair?

Mr. HATHAWAY. The person in the real estate business, what does he do? They are both treated the same exactly. The only rule is that you cannot take it against your outside income whether you

are in the real estate business or regardless of what business you are in.

Mr. LONG. Mr. President, if the Senator will yield further, this would be a new procedure in the law, adding something in the tax code that favors one in a particular business, say in the real estate business, or that favors someone in any other business—the equipment rental business or the farming business. If you want to invest in that business and you are getting income from that business, you get the break. You do not pay any additional tax. But if you are one who wants to invest some money in that business, you do pay the additional tax. So if you look at the people in the business where they build shopping centers or they build office buildings and you say, well, that looks like a pretty good thing, I would like to put some of my money into it, but you do, the fellow who is in that business gets the deduction. You do not get the deduction.

If you want to plant a pecan orchard, for example, the fellow who already has the pecan orchard can get the deduutions for the spraying and keeping down the weeds and all the other expenses of a pecan orchard. He can take all those deductions.

But if you are a person who is starting out in that business you do not get any benefits from any of that. You have got to wait 7 long years until those trees have grown up and start producing the pecans before you can take a deduction.

Now, that is a new concept to say that those who are in this business can get the advantage of it and those who are not in the business cannot get the advantage of it. If one wants to go into that business that is just too bad.

Furthermore, the complexities of these things are absolutely beyond belief. For example, some of the crops a farmer produces are under the LAL and some of the crops he produces are not under the LAL. This provision would require that he have a record to show how many hours each farmhand worked in field A and how many hours each farmhand worked in field B. He would need a record to show how many hours the tractor was in field A and how many hours the tractor was in field B and how many hours the tractor was somewhere else.

Then, having done all of that, he would then need someone to try to show him some accounting principles that nobody can agree on. Accountants themselves cannot agree on it as to how you go about allocating costs. Do you allocate based on how much time it was there or how much money was spent or do you allocate it on how much profit you made from the overall activity? The accountants themselves cannot agree on those accounting principles. So there are no two lawyers or no two accountants in America who can be expected to come up with the same figure and tell what your tax liability is under those circumstances.

Those who undertook to draft this thing have done some fairly clever things. They said, "We will leave farmers out, all farmers, unless they have $20,000 of outside income."

Then look at this amendment. They leave out residential housing. Why did they want to leave out residential housing? Well, the homebuilders came to town, and they saw what this proposal was, so they talked with their Senators, and it paid off. They said, "Leave out residential housing."

But how about the fellow who builds a shopping center? Unfortunately, he did not come to town. He does not understand the provision, and so they said, "Well enough, he has not made himself heard to his Senators," so they leave him in.

How about the fellow building the office building or something else, how about the man in the equipment rental business?

Mr. PACKWOOD. Mr. President, will the Senator yield to me? Will he stop, because I do not want to leave a misapprehension here. When we talk about residential housing, we are not talking about the little houses that people buy. This residential housing is the highrise apartments, the condominiums with 500 units. They are the very thing that the alleged rich dentist from Boston or the rich lawyer from Boston invests in.

I asked the Senator from Maine why this loophole of all is left in? And his frank answer and honest answer was:

> We hope we will pick up some votes by leaving it in.

Mr. LONG. Furthermore, Mr. William Simon, who is a former Administrator of the FEA, which handles the oil and gas industry, sent a letter in which he said:

> Do not apply it to the oil and gas industry. Those people have enough trouble already. Leave them out.

Mr. NELSON wants to leave out the residential housing people. Someone is going to leave out the people who own the football teams.

> Don't apply it to them because they have enough troubles already dealing with the professional football players.

So what it basically amounts to is that no one here wants to apply this to anybody for whom he has any sympathetic interest at all. He just wants to apply it to people with the black hats, pick out the bad boys.

What you ought to do is to direct this thing at people who are making the pornographic movies, but not the guys who are making other movies. Be careful how you apply it to them.

Apply this to organized crime, and I will vote for it. [Laughter.]

Mr. PACKWOOD. Well, let me emphasize again what is being attempted to be done with the LAL's is to catch people who have high incomes and who invest them in shelters and pay no income tax.

What is attempted to be done with the LAL? All this is, this large loophole for residential real estate can be done with the minimum income tax, can be done with the alternative income tax, can be done by changing, if you want to, the maximum income tax. There is no reason why it has to be done with the LAL's. The same amount of money can be raised, depending upon where you want to put the percentage, but why on earth, with respect to this mobility of capital, why say that lawyers are going to be lawyers and real estate people are going to be real estate people and farmers are going to be farmers, and nobody is going to mix or certainly we are going to write a tax bill that will make it difficult for you to shift your capital from place to place because we are going to give those in it a preference as opposed to those out of it. Where was the fairness? Where was the reason for that?

Mr. BUMPERS. Mr. President, will the Senator yield? I would like to ask a question of the Senator from Wisconsin or the Senator from Maine in response to a question. It says here:

> Artificial losses from farm operations for pre-paid feed, seed, and fertilizer expenses, expenses incurred for crops, animals or trees before the period of production, except for wheat, alfalfa, barley, oats, rye, sorghum, cotton, livestock and poultry.

The reason this gets my attention is because Arkansas happens to be the biggest broiler producing State in the country, and I am curious as to why rice, in which we are No. 1, and soybeans in which we were No. 4, why soybeans, rice, and broilers have not been excluded. Could any of the sponsors answer that question for me?

Mr. HASKELL. I think, if the Senator will yield, I can answer that. The annual crops that the Senator read out were the annual crops and they were eliminated.

If the Senator will indulge me, I would like to make a few general comments on the overall purpose of these things. Would that be all right? It will go a little bit beyond answering the Senator's questions.

Mr. BUMPERS. Certainly.

Mr. HASKELL. I do not have the floor.

Mr. PACKWOOD. Can I ask, Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I yielded to the Senator from Arkansas.

Mr. BUMPERS. I am perfectly willing for the Senator from Colorado to answer the question because the question is really addressed to who was a proponent.

Mr. PACKWOOD. I would appreciate it if he would initially answer the question.

Mr. BUMPERS. I do not know the answer.

Mr. PACKWOOD. I was curious. But I am not sure I want to get off on another track yet and yield the floor to him for other purposes until the Senator answers the question.

Mr. BUMPERS. Before he answers the question, then I would like to make this observation. When you talk about prepaid feed, seed, and fertilizer expenses, you are not talking about citrus groves or pine forests, but you are talking about any ordinary crop planted, produced, and harvested in the same year.

As I say, I am at a loss to understand why these other annualized crops, such as wheat, alfalfa, barley, oats, and so forth, are excluded from the LAL's and rice, soybeans, and poultry are not, because I certainly want to offer a perfecting amendment if this thing is not tabled. [Laughter].

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

Mr. PACKWOOD. Yes.

Mr. FONG. The Senator has been talking about lawyers, doctors, and dentists. What about the electrician, the laborer, the schoolteacher, the mechanic, who save $10,000 and want to get into, say, a gasoline station, a gasoline station business, or buy a rental unit, not a residential unit but a commercial unit.

Mr. PACKWOOD. Tough luck.

Mr. FONG. Would he be allowed to deduct his losses?

Mr. PACKWOOD. He will not be allowed to deduct the losses that this bill says cannot be deducted. You are just out of luck unless you are in the business.

Mr. FONG. What if I were a laborer and I wanted to buy an automobile to be used in a taxi business, and I find that I have got to borrow some money to buy this automobile. Then, I find that in running the business I have sustained a loss.

Mr. PACKWOOD. That is another anomaly of this bill. You can go into the taxi business and you can write off that loss against your income as a laborer. Taxis are not covered.

Mr. FONG. Taxis are not covered?

Mr. PACKWOOD. Real estate, that is covered, movies, oil, farms—what are the other two? Sports franchises—I will give the Senator the sixth one in a minute.

So here again if the purpose of the amendment is to say we do not want to allow unrelated losses to be written off against unrelated income, the bill certainly does not cover all of them.

Mr. FONG. Why the exceptions?

Mr. PACKWOOD. I do not know why the exceptions. It is their amendment. I do not know.

Mr. FONG. If this amendment goes through then what about the insurance companies and the banks? Are they going to be able to make such loans?

Mr. PACKWOOD. That is another exception. It does not apply to corporations either.

Mr. FONG. It does not apply?

Mr. PACKWOOD. No. Corporations can go out and invest. An insurance company can buy out the pecan crop; they can invest in real estate and they can write the losses off.

Mr. FONG. The Senator does not understand my question. What would happen to the loan business as far as the banks are concerned and the insurance companies are concerned? Who will lend the money needed for investments?

Mr. PACKWOOD. Well, my hunch is you are going—the testimony we had from all segments of commerce was that this LAL concept was going—to depress the gross national product, depress jobs, depress everything, because you——

Mr. FONG. You are going to throw a lot of people out of work.

Mr. PACKWOOD. Oh, yes. We had group after group, and they came forth with specific statistics, studies, as to how many people they figured they would lose in jobs, how much downturn in income, in the gross national product.

Mr. FONG. We already have got an unemployment rate of 8.5 percent.

Mr. PACKWOOD. That is right.

Mr. FONG. And this is going to increase the number of unemployed.

Mr. PACKWOOD. We did not have any witness who testified to the contrary, that in whatever business activity this affected it would help. Every one of them said it would hurt it.

Mr. FONG. I am quite sure this is going to depress business, no question about it.

Mr. PACKWOOD. It is absolutely going to put people out of work.

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

Mr. PACKWOOD. Yes.

Mr. CURTIS. A witness, Dr. Norman True presented testimony to the committee suggesting that the revenue loss resulting from LAL and other tax shelter provisions of the House bill that applied to real estate could lose as much as $2.8 billion in revenue. The nature of making revenue estimates is sufficiently speculative that Dr. True may be wrong, he may be too high, he may be too low, but you do not have to be an expert to find out that this discourages activity, building, enterprise, and the creation of jobs.

While the Senator is yielding to me, I would like to have the Members turn to page 354 in part I of the hearings and read what one of the eminent lawyers has to say about this LAL provision.

In order to find out where we stand on something, we have got to go through a process of examining 26 revisions of the statutes to apply LAL, and there is not a lawyer in the land that after he completed that would be too sure of his answer.

Mr. FONG. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. FONG. Somebody gets the money, correct?

Mr. PACKWOOD. What does the Senator mean, somebody gets the money?

Mr. FONG. I put $100,000 into a business, I lose it.

Mr. PACKWOOD. Yes.

Mr. FONG. Well, then somebody got that $100,000.

Mr. PACKWOOD. Well, you went out and lost it.

Mr. FONG. Yes.

Mr. PACKWOOD. And you are paying the bank interest because you have put up a building, but you have lost it.

Mr. FONG. Yes.

Mr. PACKWOOD. Out of your pocket.

Mr. FONG. It has gone out of my pocket, but somebody has got it.

Mr. PACKWOOD. You do not have it.

Mr. FONG. I do not have it, the man who has got it probably is taxed, is he not?

Mr. PACKWOOD. Hopefully.

Mr. FONG. Hopefully, he will be taxed because he made some money on mine. I have lost that money. It has gone into somebody else's pocket.

Mr. PACKWOOD. Well, no, it is actually a loss of revenue because you are the one who will be taxed. Let us take this situation.

You borrow from the bank.

Mr. FONG. Because of my having lost the money, somebody is going to pay a bigger tax.

Mr. PACKWOOD. No, not a bigger tax. Here is what will happen.

Mr. FONG. Why not?

Mr. PACKWOOD. Take the exact situation, you borrow from the bank at 10 percent interest, $9,000 a year. That is $9,000 income to the bank, and they pay a tax. It is $9,000 lost to you, you pay it out of pocket, but you cannot deduct it from your income.

Mr. FONG. I understand that.

Mr. PACKWOOD. You will pay a higher tax.

Mr. FONG. I will pay more tax. And because the person who is working and getting income despite my loss, he is going to pay some taxes, is that correct?

Mr. PACKWOOD. Yes.

Mr. FONG. The lumber man who sold the lumber and made some profit, he will pay a tax.

Mr. PACKWOOD. Yes.

Mr. FONG. The gasoline man is going to be taxed.

Mr. PACKWOOD. So you have not lost everything, but he is going to pay the tax whether or not you get to pay a reduced tax. There is one additional gain.

Mr. FONG. But if I did not go into the business, he would not have income upon which to pay any taxes.

Mr. PACKWOOD. Correct.

Mr. FONG. And the Government would not get any money from him.

Mr. PACKWOOD. Correct.

Mr. FONG. That is correct.

Mr. HATHAWAY. Will the Senator yield?

Mr. PACKWOOD. I yield to the Senator from Maine.

Mr. HATHAWAY. To answer the question of the Senator from Hawaii, why these six industries were chosen, these were chosen by the administration. The Senator from Oregon singled these out as being areas where there was more abuse. The Treasury does support the House version we are now supporting in our amendment, the LAL restriction, in order to curb the abuses in tax shelters.

I understand, in answer to the question of the Senator from Arkansas, the reason the various items listed were exempted is that there is an at-risk provision in the House bill that the House Members considered to be adequate to curb the shelter activity in those particular farming activities.

So that the LAL is restricted to those where the at-risk provision is not sufficient. But the at-risk provision is simply a limitation on losses based upon the amount of money actually risked in that enterprise, and the Finance Committee has adopted that provision.

Mr. CURTIS. Will the Senator yield right there?

Mr. HATHAWAY. We do not think there is sufficient in all of these shelters to do the job that ought to be done.

Mr. CURTIS. Will the Senator yield? Is it not true that in respect to residential housing there is no at-risk provision, is that not correct?

Mr. HATHAWAY. In whose bill?

Mr. PACKWOOD. In the Senator's amendment.

Mr. HATHAWAY. That is right.

Mr. CURTIS. Yes.

Mr. HATHAWAY. The Senator is correct.

Mr. CURTIS. That was not applied, and we understood a minute ago the Senator was referring to the at-risk.

Mr. HATHAWAY. But in answer to the Senator from Arkansas' question about the various farming activities excluded from LAL that at-risk provision would take care of those particular types of farms.

Mr. CURTIS. In reference to farming, suppose the husband and wife are reporting their taxes jointly, and the wife has a good job, but she decides that she wants to assist her husband in expanding the farming operations, and so on, and her outside income is substantial and they have losses.

Under the Senator's provision, would the loss be denied, the losses incurred in the farming operation?

Mr. HATHAWAY. First of all, the Senator has to tell me what kinds of losses. There has been a lot of confusion here over just what losses we are talking about.

The ordinary business losses are deductible against any, whether they are in the business or out of the business, it does not make any difference.

What we are talking about is the certain losses that are itemized with respect to each one of these activities that are considered the artificial losses.

They are not really artificial, they are accelerated losses.

So the losses the Senator is talking about, he is restricting them to the so-called artificial losses.

It is true that the amount of deduction we can take is limited by the farm income plus $20,000 of outside income, and it is a dollar-for-dollar reduction, for every dollar of outside income above $20,000.

That does not mean they are lost forever. They go to a carryover account to be deducted later on.

Mr. CURTIS. What is artificial about it?

Mr. HATHAWAY. I stated earlier in the day, I think the House adopted a term that does not really convey the correct meaning.

They are not artificial. We pay cash for them.

They really should have said artificially accelerated losses.

Mr. CURTIS. Yes.

Mr. HATHAWAY. So that in the first year, when they ought to be capitalized over the life of the asset, that is all it means.

Mr. CURTIS. Certainly, taxes have to be paid, or there is a lien against the property and interest builds up. Yet the Senator's own amendment treats taxes in some instances as artificial losses or artificial expenditures during the construction period.

There is not a thing in the world artificial about it.

Mr. HATHAWAY. Well, it is not artificial that you do not have to pay them. Certainly, you have to pay them. But they are considered artificial because they are to be capitalized and spread over the life of the property.

It is not an artificial loss if we go out and pay cash for a piece of machinery, but we may have to amortize that over a 10-year period and not take the entire deduction the first year.

That is what we mean by artificial.

Mr. CURTIS. How much revenue does the Senator contend his amendment would pick up?

Mr. HATHAWAY. I think it comes——

Mr. CURTIS. Now, the authorities indicate——

Mr. HATHAWAY. Close to $400 million more than the Senate version.

Mr. CURTIS. Does that assume any change in economic behavior of our economy?

Mr. HATHAWAY. I do not know what justified assumptions we can put into any tax changes we might make.

We assume that if the money is not invested in these various activities, that the losses are going to be limited as far as outside income is concerned and get the tax revenue from an outside income.

If a dentist is limited on his deductions in respect to his investment in any one of these six categories, then he will have to pay the ordinary income tax he would have to pay on his dentist income.

So we are not recovering now because he can shelter that income from taxation. The estimate by the Treasury Department is in the neighborhood of $400 million.

Mr. CURTIS. And one of the things the distinguished Senator is contending is that the payment of taxes be capitalized. If we approve a bill with a one-time expense, it is logical that that be capitalized and spread out. Taxes are a recurring expense. They recur year after year after year.

I would like to have the reasoning for the contention that a payment of taxes ought to be capitalized in any endeavor.

Mr. PASTORE. Will the Senator yield to me so I may ask a question of the Senator?

Mr. PACKWOOD. Yes, I will yield, but I wish also that the Senator would answer the question of the Senator from Nebraska.

Mr. PASTORE. As I understood the original hypothetical question which was raised by the Senator from Oregon, it is if a law firm invested its money, let us say, in building a barber shop and there was a loss, it could be deducted from the profits of the law firm.

Now the Senator comes along and tells me if that law firm builds, let us say, a condominium, they can deduct that loss? Are we not being a little inconsistent here?

Mr. HATHAWAY. Let me say to the Senator from Rhode Island there are undoubtedly areas other than the six which are listed here where people can shelter their income.

Mr. PASTORE. Why does the Senator pick out a condominium?

Mr. HATHAWAY. I suppose the question would be better addressed to the Treasury Department because they recommended these six areas, as the ones where you have the most tax abuse. Undoubtedly, there are other areas where you have front-end cost, where you could invest and get deductions without any income from that enterprise, such as starting up the barber shop, and thereby shelter your law practice income to a certain extent. But there is not that much revenue involved in these others.

Mr. PASTORE. I am talking about the principle involved. Does the Senator think that it is unfair to say that a law firm that invests its money in a commercial business cannot deduct that loss from its profits as a law firm, yet it can deduct the loss if it were a condominium? Are we not being a little inconsistent?

Mr. HASKELL. Will the Senator from Maine yield?

Mr. HATHAWAY. I am happy to.

Mr. HASKELL. I would like to mention to the Senator from Rhode Island that there are certain occupations that have the benefit of these accelerated deductions, accelerated being artificial in the sense that I can take the deduction this year where, if there was not that acceleration, I would have to take it down the road somewhere. One of those areas is building. Another area is farms, another area is movies, another area is oil and gas, another area is equipment leasing, and another area is sports.

For the reason that it is in these areas that these accelerated deductions take place, the thought behind this provision—which incidentally was recommended originally by the Treasury Department—was that it is fine to take those accelerated deductions against the income from those particular enterprises and maybe reduce your taxes to zero from those enterprises but not to reduce your law practice income to zero as well.

In other words, as somebody pretty graphically put it, it is fine to drill oil wells and reduce your income from oil wells to zero by intangible drilling costs, but if you are a dentist do not reduce your income for drilling teeth to zero by the use of these accelerated deductions.

Mr. PASTORE. And does the Senator think that is fair?

Mr. HASKELL. Yes.

Mr. PASTORE. In other words, the Senator is making a distinction between putting your money as a lawyer into a condominium as against a shopping center?

Mr. HASKELL. No, no.

Mr. PASTORE. That is what we are doing. The Senator is saying if you put your money in a condominium and you lose, you can deduct that from your income as a lawyer. But if you put it in a shopping center and you lose you cannot deduct it.

Mr. HASKELL. I would say this, I would welcome an amendment which puts the residential real estate in the same category as the shopping center.

Mr. PASTORE. All right. Now the Senator is talking my language.

Mr. HASKELL. If the Senator will offer it, I will be pleased to support it.

Mr. PASTORE. I am not going to offer it, but I am looking at the consistency and the inconsistency here tonight. When the Senator tells me that I have to vote for an amendment, with which I agree on the example given by the Senator from Oregon, and then it is revealed that if you get into a condominium it does not apply, I think we are being very inconsistent.

Mr. LONG. Mr. President, if the Senator wants to leave residential real estate like the other things in the LAL, all he has to do is withdraw the amendment. That is the only purpose of the amendment, to give the people in the residential real estate construction business an advantage over other people in other construction business.

If they want to treat them alike, just vote against that amendment, and we will vote on the committee amendment to strike the whole thing.

Mr. PACKWOOD. I believe I have the floor, have I not, Mr. President?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I do not think it will be difficult for the mind of man to figure out new tax shelters. We thought there were six, but now we will let them have the shelter of real estate. A good tax lawyer will still find a way to shelter his income. If we are going to reach it, we must reach it with an income tax.

Mr. LONG. Will the Senator yield to me?

Mr. PACKWOOD. Yes.

Mr. LONG. We have in the law, and in the bill, recapture for real estate gain. We have a requirement to capitalize the cost for these farm syndicate operations. We have an "at risk" provision for oil and gas, farming, movies and equipment leasing. We have a minimum tax to apply in this situation that will raise $1 billion in revenue from people who get by without paying a lot of taxes.

So we go at them four different ways. Why do we have to go at them five different ways?

Furthermore, among the farmers, there are 175,000 returns with farm losses and outside income in excess of $20,000. About 150,000 of these are proprietaryships, which can be regarded as legitimate farmers in the farm business. There are about 25,000 taxpayers out of 175,000 that we do not regard as just being farmers in the ordinary sense of being a farmer.

So in order to go after 25,000 people with the black hats, they shoot down 150,000 more who are wearing the white hats. What kind of sense does that make? Every time they hit the targets, they hit six unintended victims.

Mr. PACKWOOD. What sense does it make to say this does not apply to corporations? If a person wants to go out and sell the wheatlands and the pecan lands, he could put his money into real estate and write off all the losses.

Mr. LONG. All one has to do is incorporate and get away with everything. It is all right for corporations to do this, but just do not do it as individuals.

Mr. PACKWOOD. That is right.

Do I still have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Oregon still has the floor.

Mr. LONG. Mr. President, I will refer the Senator to this problem of allocating. It looks to me as though it is for political reasons that they put some crops under the LAL and some crops not under the LAL. A lot of farmers produce more than one crop. So here is a farmer—and I want them to show me how he will do this—who has part of his farmland in products under the LAL and part of it farmed in new products not under the LAL. According to this, that farmer needs to know how many hours each farm hand was in this field and how many hours he spent in that field. He needs to know how many hours the tractor was in this field, how many hours it was in that field, and how many hours it was somewhere else.

Then he needs to allocate his cost between all these different fields.

Furthermore, here is a fence between two fields. That raises this question——

Mr. KENNEDY. Will the Senator yield?

Mr. LONG. How are you going to allocate the fence? Suppose it was there already? Are you going to allocate the fence to keeping the cows in or keeping trespassers off the corn?

How much are you going to allocate to the protection of your property, how much are you going to allocate to that which is on the right-hand side, and how much of that which is on the left-hand side?

The PRESIDING OFFICER. Senators are seeking the floor. The Senator from Oregon should yield for questions.

Mr. PACKWOOD. I would like to make a summary statement, because there are Senators here who were not here before, and then I will be happy to yield the floor.

Mr. FONG. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. FONG. Under the administration of President Johnson, they first asked for the investment credit; is that correct?

Mr. PACKWOOD. That is correct, yes.

Mr. FONG. Then, from time to time, we have cut out the investment credit, and then the administrations have come back and asked for the investment credit because the economy was depressed; is that correct?

Mr. PACKWOOD. That is correct.

Mr. FONG. Now, we still have an investment credit?

Mr. PACKWOOD. That is correct.

Mr. FONG. What will this do? On one hand we are asked to give investment credit to businesses to stimulate business. On the other hand, we are saying, "Let us take away LAL and cut down business activity." Is that not what in essence we are doing?

Mr. PACKWOOD. I think that is what we are doing, yes. And the irony is that the investment tax credit is not touched by the amendment offered by Senator HATHAWAY and others; they have left that in, as if to say, "We want to spur business activity."

Mr. FONG. Is it not true that we are working in opposite directions?

Mr. PACKWOOD. Yes.

Let me proceed, and then I will yield the floor. Let us start out by trying to state the concept of what we are trying to do.

What we are trying to do, basically, is make sure that people who have large incomes cannot hide them in such a way that they pay no taxes. We heard the figure over and over of the 244 millionaires who pay no taxes. None of us would like to continue that.

There are a number of ways to get at it. You can do it through the minimum income tax, you can do it through the alternative income tax, and we will have a chance later on to vote on those, because the Senator from Tennessee (Mr. BROCK) is going to propose an alternative tax as a substitute for the minimum tax in the bill, and Senator NELSON and others have got a minimum tax proposal; so Senators will have, later, an opportunity to vote and say whether they want to put all the preferred income in it—they have not done so; there remains the fact that millionaires can buy municipal bonds to their heart's content, and pay no tax.

But assuming they are willing to put all the income under a minimum tax, you can do it. That is one thing we are trying to do.

But will we try, at the same time, to make it difficult for people to move income from one area to another? Bear in mind, they are going to pay a tax. Is it reasonable to want to try to encourage the immobility of capital? I do not think so. So long as we can pick up the income, so long as we can raise enough money to take care of whatever we think in our hearts this bill is supposed to do, so long as we can make those millionaires pay taxes, why say at the same time, "Uh-huh, but do not you try to move your money from real estate to movies, or from movies to oil, or from oil to farming, or from farming to sports franchises. That is out of line, unless you are a corporation. Then it is OK. Or unless you want to put your money in residential real property, condominiums, 1,000-unit apartments. That is OK if you are an individual or a corporation."

Why? What is the sense? What is gained? If there was a tradeoff, if we were picking up something that we would not be picking up with a minimum income tax, if we were stopping something we wanted to stop, I could see some possible gain. But there is nothing that we cannot achieve in a more rational fashion to be gained by these LAL's, and there are jobs to be lost, economic activity to be lost, capital to be frozen, to no avail.

Mr. President, I am willing to yield the floor. I can see no sense in this, and I will be happy to give the other side a chance to speak.

Mr. KENNEDY. Mr. President, I have listened with some interest to the debate over the last hour and 15 minutes, and during an earlier period during the course of the morning discussion and debate. We have heard a lot of statements made about what this amendment does and does not do, and we have been involved in a number of hypothetical situations during the discussion. I think it is appropriate that we consider some of the basic issues which are involved.

Those of us who support this amendment have been criticized because it does not go far enough, because it does not apply to corporations. But in the past there have not been the serious abuses by corporations that have taken place by individuals in the use of these tax shelters. I myself would have voted, that

we include corporations; I think the case can be made.

But nonetheless, it was our judgment not to include corporations. The point was made with regard to housing, whether that should or should not be included. I again would have supported the inclusion of it, but there are those who believe that with the dramatic failure by Congress in other areas of housing, the industry would be hurt unfairly.

This Senator is going to vote for the continued extension of the $1.8 billion in tax cuts that will help low- and middle-income people. And the Senators who are going to vote against this particular amendment had better start thinking. Down the line, with all this discussion and debate about the meaning of the budget process, we have got to start trading some of these matters off. We have to raise the revenues somewhere to pay for the tax cut. We are talking about $400 million in new revenues from LAL. From whom? You cannot benefit from these tax shelters in the Internal Revenue Code unless you are making $50,000 or more. $400 million, from those people who are making $50,000 or more. We are faced with the recommendation by the Finance Committee to raise the taxes of middle-income and low-income people by $1.8 billion. Yet the committee is unwilling to raise $400 million from the wealthiest citizens.

Start thinking about how it is proposed we allocate that $400 million. I know how my vote will be on that particular issue.

We have crocodile tears poured out about the poor farmer. I am not a farmer; I do not claim to be. There are many distinguished Members of this body who know a great deal more about it than I know. But I will ask any Senator who represents a farming State to find me a farmer who can go out and get an interest-free loan. No, sir. You find me a farmer who can go out and get an interest-free small business loan. Where does that exist, under any of the farming legislation? It does not exist there. But it exists for the dentists up in Massachusetts. They can go get it; but no farmer can, and no small businessman out in the farming areas of this country can.

They get interest-free loans from the IRS. That is basically what we are talking about—the ability, under the tax laws to get interest-free loans. They are available only to those in the top 1 percent of American taxpayers. That is what we are talking about. It is not that small farmer, or that small businessman. It is the top 1 percent, and make no mistake about it; and there is not going to be anyone in the Finance Committee or any other committee who can basically dispute that, because that happens to be the fact.

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

Mr. KENNEDY. Not yet. No, I will not. We waited an hour and 20 minutes to try to get the floor, and we waited a good long time last night.

Mr. LONG. Senator, we yielded to you when you asked for the floor.

Mr. KENNEDY. The Senator is quite correct. I appreciate that. I did last evening. The Senator is right. I shall yield in just a moment.

Mr. President, these tax shelter situations, which are available to high-income people that we are talking about, are a basic abuse of the tax system.

Here is one example, and I will make it a part of the RECORD. It is from Gerald Mandel in Lake Forest, Ill.

Enclosed is an investment summary of Juron Associates, a limited partnership being formed—

In this case——

To mine and sell coal from a block of proven reserves of known quality and quantity in—

Randolph, W. Va.

That is one of those five areas that are included in the LAL program.

This is not an exploration venture; the reserves have been established by independent mining engineers.

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

Mr. KENNEDY. I yield.

Mr. RANDOLPH. In the reading of the memorandum the Senator has referred to Randolph, W. Va. There is no town in our State by that name.

Mr. KENNEDY. Excuse me. There should be a Randolph, W. Va., named after the great Senator.

Mr. RANDOLPH. I suggest that the location mentioned is Randolph County, in which I reside.

Mr. KENNEDY. Randolph County. It is Randolph County, and I appreciate that correction.

The summary highlights the major characteristics of the offering, namely, a 1976 deductible tax loss of $3.77 per each $1 of investment; in the first year, 1976, cash return of 22 percent; overall return of $5 for every dollar invested over a 17-year time frame.

Mr. President, I ask unanimous consent that this memorandum from Gerald Mandel be printed in the RECORD.

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

MEMORANDUM

Enclosed is an Investment Summary of Juron Associates, a limited partnership being formed to mine and sell coal from a block of proven reserves of known quality and quantity in Randolph County, West Virginia. This is *not* an exploration venture; the reserves have been established by independent mining engineers.

This summary highlights the major characteristics of the offering, namely:

1. A 1976 deductible tax loss of $3.77 for each $1.00 of investment.

2. First year (1976) cash return of 22%.

3. Overall return of $5.00 for each $1.00 invested over a 17-year time frame.

4. For an investor in the 50% tax bracket, no downside risk, a zero out-of-pocket loss, regardless of the economic success or lack of success of the mining venture.

While I am sure you are familiar with the escalating demand for coal as this nation's only readily available energy resource, you may find pertinent background in the attached articles. Hope you have an interest and I will contact you shortly.

Mr. KENNEDY. This is the kind of document that goes out to individuals making over $50,000. The abuse occurs in the areas of movies, real estate, farms, oil or gas, and many other areas.

And that is what this amendment is about.

If this body is going to make a decision to build more shopping centers, to go out and produce more movies, to perform these other kinds of endeavors in oil and gas and other activities, there are better ways and more effective ways of doing it than providing hundreds of millions of dollars in tax subsidies to the middle men and rich investors in these situations. These people do not care whether they drill an oil well in Oklahoma or downtown Boston, because they are going to get their write-off in any case.

Those who understand how tax shelters distort property values in rural areas and farming communities, among legitimate businessmen and women, make a compelling case. That case has been made and introduced into the RECORD by those who have supported this amendment.

One cannot find in the Internal Revenue Code any place where we decided that we are going to provide these shelters to encourage shopping centers or movies. The way that this shelter program has worked in the past, every Senator in here knows, the Finance Committee knows, is that it has simply grown up. Sharp lawyers and sharp accountants knew how to weave their way through the Internal Revenue Code and produce the kind of fat writeoffs that the shelters now provide.

We never said:

Well, we have to build more shopping centers and real estate in all the places and, therefore, we are going to provide a special incentive.

That was never a public policy question. That was never a public issue that was debated and discussed in this Chamber. But it has grown up and it exists. And it is working a serious distortion. Let me go through the figures again.

A businessman with $252,000 income paid no tax; a corporate executive with $1,800,000 in income paid tax at 5.3 percent; a businessman with $390,000 income paid 2.8 percent tax rates.

Wage earners making $10,000 pay an effective tax rate higher than these.

So, Mr. President, I hope that this amendment can be accepted.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. LONG. The Senator has made an eloquent plea against permitting a lawyer or doctor to invest money in something and take some deductions, and the House bill would undertake to do what the Senator is talking about. We seek to strike that provision.

But the Senator, if I understand it, is speaking for the Nelson amendment, and the Nelson amendment would keep that loophole that he is talking about open for the benefit of those same doctors and lawyers who put their money into luxury high-rise apartment buildings.

Why does he want to save that loophole for them?

Mr. KENNEDY. I refuse to be put in

a position that, because we are not answering all the problems, there is a deficiency in the amendment.

I quite frankly would have supported that. It is wrong to say that, because we do not apply LAL to corporations, because we can pick up some of this income in the minimum tax, or because we are not dealing with housing, therefore, the amendment does not make sense.

It makes sense. If Senators vote for LAL, and we are able to recover these revenues, I think individuals in this body will be able to vote for the extension of that $1.8 billion in tax cuts for average citizens.

If the Senator is asking for my view, I would say that I would include it. I was satisfied when that matter was discussed among the Members of the Senate, that LAL should not apply to housing. It could be done. I would vote for it.

Mr. LONG. All the Senator has to do is vote against the Nelson amendment, and that is exactly what he would achieve because the House bill would not permit a deduction for residential real estate, high-rise apartment buildings for luxury apartments, and deductions of that nature.

That is what the Nelson amendment would protect. I personally think what we have done with the minimum income tax, the recapture provisions, the at-risk provision, farm syndicates, and syndicates generally, takes care of that problem.

But what he is speaking for when he is speaking for the Nelson amendment is to try to protect the residential real estate items that he would define as tax shelters even more than the House would protect those.

So it seems to me, Mr. President, that that would defeat the very thing that he claims he would like to do.

I do say this, Mr. President, also, that these figures the Senator has been using about 244 taxpayers who paid no tax, are very misleading. There have been studies made of similar lists up through 1974, and what they show is that there is a great difference between adjusted gross income and net income.

As to many people who have $200,000 adjusted gross income, in fact the last time a study was made, the 100 people who had $200,000 of adjusted gross income and paid no tax for the most part had no net income at all. Fifty-five percent of them had an interest expense among their itemized deductions that exceeded the $200,000. Fifteen percent of them had paid State and local taxes and exceeded $200,000. About another 15 percent had big charitable deductions which, taken together with their State and local taxes, medical expenses, and other itemized deductions, owed us no income tax. Seven percent of them had paid taxes to a foreign government that exceeded the tax that they would owe to this Government; therefore, they owed us nothing.

We are asking in our bill for the Treasury to actually pull out those returns and study them to see from the point of view of economic income who it was that made a lot of money and actually paid out very little tax. But when we started this, Mr. President, we were looking, and I was the chairman of the committee in 1969, managing the tax reform bill, at income returns in a study that indicated that 23 people making $1 million or more were paying us no income tax, even on an adjusted gross income basis, which failed to take into account the difference between gross and net income. They cannot now produce us one, not a single one in that category.

As a matter of fact, according to the figures they proposed, even on an adjusted gross income basis they only could find one taxpayer who reported a million dollars and paid us no income tax.

The time we went to work on this, we had one return that indicated a man had an adjusted gross income of about $3 million and paid us no income tax. We go a long way, but we go a great deal further with this bill.

The question with regard to the type of people you want to affect is, how many ways do you want to go? We go after them with a recapture provision. We go after them with a minimum tax. We go after them with an at-risk provision. We make business syndicates—individuals syndicated to go into business together—capitalize their farm expenses rather than deduct them. When you are going after people and you shoot one fellow in the black hat while you are shooting six others in the white hat, how much of that do you want to do, loading one thing on top of another, until the complexity and the weight and the mess of it will drive out the people you are not trying to get. It does not make any sense.

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

Mr. LONG. Does the Senator want me to yield for a question?

Mr. KENNEDY. I thought I had yielded to the Senator from Louisiana for a question.

Mr. LONG. I thought the Senator had yielded the floor.

Mr. KENNEDY. I only want to make one more brief comment, and then I will be prepared to yield the floor.

Mr. LONG. I yield.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I point out that in this area, on the tax shelter provisions, under the bill that came from the Finance Committee, we are talking about $165 million which will be recovered. This is in the report, on page 23. That goes down through 1978 to $107 million; in 1975, $98 million. That is in spite of the fact that there are billions of dollars going pouring through these loopholes.

I will read briefly from a letter in support, and then I will put it in the RECORD. It supports our position on LAL, closing tax shelters. It was written by a distinguished citizen known to all of us. He writes:

I understand that the first matter to be considered in the Senate debate on H.R. 10612 will be the Limitation on Artificial Accounting Losses (LAL) proposal. Although the Senate Finance Committee voted to delete LAL because of its alleged complexity and adverse economic impact, I would like once again to urge upon you and the other members of the Senate the desirability of enacting this proposal . . .

I ask unanimous consent to have the letter printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. KENNEDY. Mr. President, that letter was not written by a liberal or a Democrat. It was written by a Republican, a Wall Street banker, the Secretary of the Treasury, Mr. Simon.

With respect to the Nelson proposal, there is also a statement by a group of distinguished economists supporting our proposal. Part of this statement reads:

In particular, we offer this professional judgment after having examined various arguments that have been set forth in support of the economic stimulus of tax shelters. These shelters operate as indirect, roundabout subsidies for special types of investment activity, in special forms available only to persons in the highest income brackets.

Such tax shelters are an inherently inefficient technique for stimulating investment. Better uses can be found for these tax subsidies, either in promoting investment or achieving other national goals.

Seventeen economists signed it, including Larry Klein, whom the chairman of the Finance Committee quoted earlier. Does the chairman know that Mr. Klein signed it?

EXHIBIT 1

SECRETARY OF THE TREASURY,
Washington, D.C., June 16, 1976.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the first matter to be considered in the Senate debate on H.R. 10612 will be the Limitation on Artificial Accounting Losses (LAL) proposal. Although the Senate Finance Committee voted to delete LAL because of its alleged complexity and adverse economic impact, I would like once again to urge upon you and the other members of the Senate the desirability of enacting this proposal, subject to one significant modification mentioned below.

Since 1973, the Administration has supported LAL as an effective vehicle to curb tax shelters which introduce substantial distortions into the income tax system. Under the proposal, tax accounting rules would no longer be permitted to create from a profitable enterprise an artificial tax loss to be deducted against (and shelter from tax) other unrelated income. Artificial accounting losses limited by LAL would neither be permanently disallowed nor capitalized. Instead, they would be suspended and carried forward to be deducted in full against net related income in a future taxable year, thus more correctly matching income with the expense of earning it.

The Administration continues to support LAL and does not believe that it will have the adverse economic impact perceived by the Finance Committee. However, because of recent tax legislation adversely impacting on the oil and gas industry (most notably the substantial repeal of percentage depletion), because of the price rollback feature in last year's energy legislation, and because of the continuance of government-imposed price controls which prevent market incentives from increasing domestic energy supplies, the Administration opposes the application of LAL to oil and gas activities at this time.

Sincerely,

WILLIAM F. SIMON.

Mr. LONG. I am pleased to find that out. I regret to say that he knows more about economics than he knows about tax law. [Laughter.]

Mr. President, the Senator made reference to Secretary Simon's letter. That is interesting. Mr. Simon said yes, he is for the LAL. That applies to about five different groups, about five different businesses. Many are left out. It does not apply to corporations.

The Senator from Massachusetts did not read the remainder of the letter. That man is a former energy administrator. He is for the LAL, but read the rest of the letter. It says leave out the oil and gas industry. So that if you have any sympathetic interest in somebody, if you understand their problem, leave them out. The LAL does not apply to the stock brokerage business, so he does not have to ask to leave them out. That is his old business. He understands the oil and gas business. He asks to leave them out.

The sponsor of the amendment wants to leave out the high rise apartments and the other residential real estate construction. We have another amendment, to be offered by one of our friends who has good liberal credentials, to leave out the people who own the professional football teams and professional basketball teams. Leave them out.

So that if you have a sympathetic interest in anybody, leave them out; and you will never explain satisfactorily to anybody why you put him in. You can explain your good judgment to the fellow that you left out, as to why you left him out, but how are you going to explain to the guy you put in why you put him in?

The whole thing, in my judgment, would be the biggest fiasco the mind of man ever conceived, and you will spend the rest of your life trying to defend it, until it comes off the statute books. It should not become law.

Therefore, Mr. President, I move to table the Nelson amendment, and I ask for the yeas and the nays.

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

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I rise in opposition to the amendment of the Senator from Wisconsin. In my view, restoration of the House "limitations on artificial losses"—LAL—provisions, even in the modified form proposed by the Senator from Wisconsin, will unduly complicate the tax code, discourage investment in areas of high national priority, and, thus, stagnate economic recovery.

As our Finance Committee report points out, the blanket LAL approach is not unlike using a shotgun to kill a housefly. It penalizes not only those who seek tax shelters without regard to the economic value of a given investment, but will most assuredly discourage investment in economically worthwhile businesses which, as a matter of national policy, need to be given a high priority. LAL does not distinguish between the taxpayer who invests, through nonrecourse loans, in a highly leveraged enterprise which has little prospect of making a respectable economic return. That taxpayer can fairly be labeled a tax avoider who is taking advantage of a loophole. Undoubtedly, such investments may occur today solely because of market distortions created by our tax laws.

Without the LAL monstrosity, the Finance Committee has closed these loopholes. Without LAL, we have insured that wealthy investors bear a greater share of the overall tax burden. But we have achieved these meaningful reforms without enacting another Lawyers and Accountants Relief Act—which, make no mistake, is precisely what LAL is.

TAX REFORM CONFRONTED HEAD-ON

By considering LAL first, we have the opportunity to face the tax reform issue head on: Do we, in the name of reform and tax purity, want to raise a few more dollars from investors with total disregard for the economic consequences of such reforms? I assure you that tax reform—while it is generally a popular issue with our constituents—will be meaningless to the construction workers, the motion-picture technician, or the oilfield worker who is thrown out of work in the name of tax reform. Nor will the motorist who must pay more for gasoline, or even stand in line for gasoline again, be comforted in the knowledge that some investor had to pay more taxes because the Congress, in its wisdom, enacted something called LAL.

TAX REFORM GOALS

If we want to move toward tax simplification, if we want to encourage investments in areas of high national priority, and if we want to assure a continued strong economic recovery, we should reject LAL. While it may have some appeal to devotees of Rube Goldberg, it would be disastrous as a cornerstone of national tax policy.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. 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. ROBERT C. BYRD. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Texas (Mr. BENTSEN), the Senator from Idaho (Mr. CHURCH), the Senator from Ohio (Mr. GLENN), the Senator from Utah (Mr. MOSS), the Senator from Kentucky (Mr. FORD), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON), and the Senator from Indiana (Mr. BAYH) are absent because of illness.

I further announce that, if present and voting the Senator from Indiana (Mr. HARTKE) would vote "nay."

Mr. HUGH SCOTT. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nebraska (Mr. HRUSKA), the Senator from New York (Mr. JAVITS), the Senator from Kansas (Mr. PEARSON), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

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

The result was announced—yeas 46, nays 33, as follows:

[Rollcall Vote No. 299 Leg.]

YEAS—46

Allen	Eastland	Nunn
Baker	Fannin	Packwood
Bartlett	Fong	Pastore
Beall	Garn	Percy
Brock	Gravel	Randolph
Bumpers	Hansen	Roth
Burdick	Hatfield	Scott, Hugh
Byrd, Harry F., Jr.	Helms	Scott, William L.
Byrd, Robert C.	Inouye	Sparkman
Cannon	Johnston	Stennis
Chiles	Laxalt	Stevens
Cranston	Long	Talmadge
Curtis	McClure	Thurmond
Dole	McGee	Tower
Domenici	Montoya	Tunney
	Morgan	

NAYS—33

Biden	Hollings	Metcalf
Brooke	Huddleston	Mondale
Case	Humphrey	Muskie
Clark	Jackson	Nelson
Culver	Kennedy	Pell
Durkin	Leahy	Proxmire
Eagleton	Magnuson	Ribicoff
Hart, Gary	Mansfield	Schweiker
Hart, Philip A.	Mathias	Stafford
Haskell	McGovern	Stone
Hathaway	McIntyre	Williams

NOT VOTING—21

Abourezk	Glenn	Moss
Bayh	Goldwater	Pearson
Bellmon	Griffin	Stevenson
Bentsen	Hartke	Symington
Buckley	Hruska	Taft
Church	Javits	Weicker
Ford	McClellan	Young

So the motion to lay Mr. NELSON'S amendment on the table was agreed to.

Mr. CURTIS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

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

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I would hope that we could dispose of the first committee amendment tonight and go ought first to try to get through these other matters.

Now we are trying to move to the point where we can get unanimous consent to vote on certain major amendments that Senators wish to offer, but I have felt we ought first to try to get through these first three titles.

The committee amendment strikes title I, but there are a lot of significant amendments on title II, and I would hope we could vote on the committee amendment to strike title I. But if we do not, I will understand it.

The PRESIDING OFFICER. The question is on agreeing to the amendment to strike title I.

Mr. HASKELL. Mr. President, I would be compelled to ask for the yeas and nays. But before I do, let me explain why.

A great deal was made by the floor manager of the bill and by the Senator from Oregon about the unfairness of

leaving residential real estate out of the LAL provision, and the Senator from Rhode Island, I think, was quite upset, and logically so, by the fact that if you are going to put one real estate shelter in, you should put all real estate shelters in.

For that reason, I would be compelled to ask for the yeas and nays if the Senator wishes to vote on it.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MUSKIE. Mr. President, will the Senator withhold for just a moment?

Mr. HASKELL. I withhold.

Mr. MUSKIE. Earlier in the day we had an extensive discussion with a smaller attendance than we now have over the issues supposedly raised by the Finance Committee bill and the budget resolution.

It seems to me before we get into an extensive discussion and action on revenue-raising amendments that we ought to settle the fundamental issue of whether or not the tax cut extension mandated by the budget resolution should be approved.

So I have an amendment that I would like to offer to title I of the House bill which would have the effect of extending the tax cut through fiscal year 1977 as provided in the first concurrent resolution.

It seems to me that we ought to resolve that issue one way or another at the outset of this debate before we get into all of these other amendments because until we do Members may well be in doubt as to whether or not we need the additional revenue to fund the tax cut, to fund the budget, or to hold the deficit down. Until that question is answered then, it seems to me, the question of whether this amendment or that amendment ought to be approved is up in the air for every Member of the Senate.

So, if the distinguished Senator from Colorado has no objection to my going ahead along that line——

Mr. HASKELL. I have no objection.

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

Mr. MUSKIE. Yes, I will.

Mr. HASKELL. I have no objection. I would withhold my motion for the yeas and nays. I have no objection. I do not know what the parliamentary situation is.

Mr. MUSKIE. The Chair needs some straightening out.

The PRESIDING OFFICER. The Chair has not announced the order for the yeas and nays.

Will the Senator withdraw his request?

Mr. HASKELL. Mr. President, I withdraw my request for the yeas and nays.

Mr. LONG. Mr. President, if the Senator wishes to offer his amendment, I should like to advise him that I met with a group who are offering amendments on behalf of the five members on the committee who did not agree with the majority, and also Mr. KENNEDY and others, and we agreed that we were going to try to vote on these first three titles and vote them up or down with germane amendments to them; and thereafter we were going to seek a unanimous-consent request to vote on certain other important amendments that that group wanted to offer, and I think the Senator is associated with those Senators in their legislative endeavors.

It would seem to me that the amendment the Senator is talking about ought to come at the end of title IV, which is the extension of individual income tax reductions, and I hope that the Senator would withhold his amendment until that point. That is where it belongs in the bill. Our agreement and understanding was that we were trying to go in sequence. We were trying to go seriatum up until we got to title IV, and at that point we were going to try to enter into a unanimous-consent agreement to vote on these other major amendments to accommodate those who were sponsoring them, and let them vote on them at times more to their choosing.

I hope the Senator could cooperate with that because I think the Senator is in agreement generally with Senator KENNEDY and Senator HASKELL and others who agreed to this, and I am trying to fulfill my end of it, and I would like the others to do the best they can to cooperate in theirs.

Mr. MUSKIE. Let me make my position clear on that. I am not a cosponsor of that package of amendments, and I deliberately did not cosponsor those amendments, so that my responsibility as chairman of the Budget Committee would be clearly separated fom their responsibilities in pursuing their joint interests.

We took this matter up in the Budget Committee yesterday and I made it clear to the Budget Committee that we ought not to sponsor a package of amendments; that we rather ought to present the Budget Committee's point of view of the resolution because we are not a tax-writing committee. We do not want to have anyone confused as to what our role is.

So although I sympathize with some of the amendments that are in this package, and probably will vote for some of them, I have not been associated with them, and so I am not part of that agreement.

The second point I would make is this, may I say to the Senator: I went to Maine last night and I got an emergency call when I arrived in northern Maine, "Senator LONG, the floor manager of the bill, refuses to go forward with any votes on the LAL amendments or any of the other amendments until the Budget Committee chairman comes back, engages in a colloquy and a debate to resolve the issues that arise between the Budget Committee and the Finance Committee."

So I came back as fast as I could, and I understood that debate on the bill was delayed until 3 o'clock this afternoon so that we could have that colloquy.

Well, now, we have had this colloquy. The issue has been raised. The question of whether or not the first concurrent budget resolution does mandate a continuation of the tax cuts through fiscal year 1977 is clearly before us.

The chairman of the Finance Committee and the chairman of the Budget Committee are in disagreement on it. So I think it is a fundamental first question for the Senate to resolve. I did not raise it. I went to Maine thinking that you were going to go through the procedure which I understood was in the works, but when I got there I was told that, no, the first issue was the budget resolution.

The clearest issue of the budget resolution is the extension of the tax cuts, and that is the first and primary issue which the Senator from Louisiana himself has raised and made fundamental to the debate. It seems to me we ought to resolve that at this point. Then, whatever way it is resolved, we can proceed to the scheme that has been worked out.

Having come back and engaged in an extensive colloquy with the Senator from Louisiana, I just do not like to see the clarity which we were able to generate in respect to these issues now muddied up by other issues.

I think the Senator has made his position clear. I hope I made my position clear.

So I think this is just the right time to have the Senate act.

Mr. LONG. If the Senator offers that amendment, he will break the budget, because there are other provisions in the bill that do reduce taxes, may I suggest to the Senator.

Mr. MUSKIE. We can debate it after I offer it.

Mr. LONG. May I suggest that if the Senator wants to hold us to the budget resolution, he offer a motion to recommit and let us vote on that motion to recommit.

Mr. MUSKIE. I have never known the Senator from Louisiana to delegate his parliamentary prerogatives to his opponent, so I do not intend to delegate my parliamentary prerogatives to the Senator from Louisiana.

I do not think this is a time for a motion to recommit.

I have tried to make it clear this afternoon that the budget resolution is the accepted policy of this Congress, until the Congress changes it.

It is not for the Finance Committee to change it. It is not for the Budget Committee to change it unilaterally. But this bill does put before the Senate the issue of whether or not the budget resolution should be changed, and because it is the Senator's initiative that has brought this issue before us, I think we ought to resolve it.

Mr. LONG. How does the Senator want to resolve it? The Senator wants to resolve that with a budget-busting amendment. He wants to resolve that with a $17 billion tax cut on top.

Mr. MUSKIE. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Very well.

Mr. PACKWOOD addressed the Chair.

Mr. MUSKIE. I offer to debate this after I send it to the desk. The Senator from Louisiana may use his rhetoric thereafter.

But I have watched the managers of the bill control the time for the last 3 hours. Now I have the floor.

AMENDMENT NO. 1887

Mr. MUSKIE. Mr. President, I call up my amendment and ask that it be stated.

Mr. PACKWOOD. Will the Senator yield for a question only?

Mr. MUSKIE. As soon as the amendment is stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

Mr. LONG. I object. I would like to know what the amendment is.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. STEVENS. A parliamentary inquiry, Mr. President.

Is it proper to interrupt the reading of the amendment?

The PRESIDING OFFICER. The clerk will continue to read the amendment and then if the Senator wishes to address his inquiry, the Chair will recognize the Senator.

The clerk will proceed.

The legislative clerk resumed and concluded the reading of the amendment.

The amendment is as follows:

AMENDMENT NO. 1887

Beginning on page 7, strike title one, and insert in lieu thereof the following:

TITLE I—TAX REFORM

SEC. 101. INDIVIDUAL INCOME TAX REDUCTIONS.

(a) TAXABLE INCOME CREDIT.—

(1) IN GENERAL.—Subsection (a) of section 42 (relating to taxable income credit) is amended to read as follows:

"(a) GENERAL RULE.—

"(1) In the case of an individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the greater of—

"(1) 2 percent of so much of the taxpayer's taxable income for the taxable year as does not exceed $9,000, or

"(2) $35 multiplied by each exemption for which the taxpayer is entitled to a deduction for the taxable year under subsection (b) or (e) of section 151.".

(2) NINE-MONTH RULE FOR 1977.—Paragraph (2) of section 42 (a) (relating to application of six-month rule) is amended to read as follows:

"(2) NINE-MONTH RULE.—Notwithstanding the provisions of paragraph (1), in the case of taxable years ending after December 31, 1976, and before January 1, 1978, the percentage "1.5 percent" shall be substituted for "2 percent" in subparagraph (A) of such paragraph and the amount "$26.25" shall be substituted for the amount "$35" in subparagraph (B) of such paragraph.".

(2) TECHNICAL AMENDMENTS.—

(A) Section 56(a)(2) (relating to imposition of minimum tax), as in effect on the day before the date of the enactment of the Tax Reduction Act of 1975, is amended by striking out "and" at the end of clause (iv), by striking out "; and" at the end of clause (v) and inserting in lieu thereof ", and", and by inserting after clause (v) the following new clause:

"(vi) section 42 (relating to taxable income credit); and".

(B) Section 56(c)(1) (relating to tax carryovers), as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "and" at the end of subparagraph (D), by striking out "exceed" at the end of subparagraph (E) and inserting in lieu thereof "and", and by inserting after subparagraph (E) the following new subparagraph:

"(F) section 42 (relating to taxable income credit), exceed".

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

(3) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1, as in effect on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"SEC. 42. Taxable income credit.".

(b) STANDARD DEDUCTION.—

(1) LOW INCOME ALLOWANCE.—Subsection (c) of section 141 (relating to low income allowance) is amended to read as follows:

"(c) LOW INCOME ALLOWANCE.—The low income allowance is—

"(1) $2,100 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2 (a)),

"(2) $1,700 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,050 in the case of a married individual filing a separate return."

(2) PERCENTAGE STANDARD DEDUCTION.—Subsection (b) of section 141 (relating to percentage standard deduction) is amended to read as follows:

"(b) PERCENTAGE STANDARD DEDUCTION.—The percentage standard deduction is an amount equal to 16 percent of adjusted gross income, but not more than—

"(1) $2,800 in the case of—

"(A) a joint return under section 6013, or

"(B) a surviving spouse (as defined in section 2(a)),

"(2) $2,400 in the case of an individual who is not married and who is not a surviving spouse (as so defined), or

"(3) $1,400 in the case of a married individual filing a separate return.".

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 3402 (relating to income tax collected at source) is amended to read as follows:

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this section, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables prescribed by the Secretary.

For purposes of applying such tables, the term 'the amount of wages' means the amount by which the wages exceed the number of withholding exemptions claimed, multiplied by the amount of one such exemption as shown in the table in subsection (b)(1).".

(B) Paragraph (6) of section 3402(c) (relating to wage bracket withholding), as such paragraph existed on the day before the date of enactment of the Tax Reduction Act of 1975, is amended by striking out "table 7 contained in subsection (a)" and inserting in lieu thereof "the table for an annual payroll period prescribed pursuant to subsection (a)".

(C) Subparagraph (B) of section 3402(m)(1) (relating to withholding allowance based on itemized deductions) is amended to read as follows:

"(b) an amount equal to the lesser of (i) 16 percent of his estimated wages, or (ii) $2,800 ($2,400 in the case of an individual who is not married (within the meaning of section 143) and who is not a surviving spouse (as defined in section 2(a))).".

(D) So much of paragraph (1) of section 6012 (a) (relating to persons required to make returns of income) as precedes subparagraph (C) thereof is amended to read as follows:

"(1)(A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), and for the taxable year has a gross income of less than $2,450,

"(ii) who is a surviving spouse (as so defined) and for the taxable year has a gross income of less than $2,850, or

"(iii) who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $3,600 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home. Clause (iii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

"(B) The amount specified in clause (i) or (ii) of subparagraph (A) shall be increased by $750 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the amount specified in clause (iii) of subparagraph (A) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151 (c);".

(c) EARNED INCOME CREDIT.—Section 209 (b) of the Tax Reduction Act of 1975 (as in effect on November 30, 1975) is amended by striking out "and before January 1, 1976".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) apply to taxable years ending after December 31, 1975. The amendments made by subsection (b) apply to taxable years ending after December 31, 1975. The amendment made by subsection (c) takes effect on the date of enactment of this Act.

(e) Section 3(b) of the Revenue Adjustment Act of 1975 is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1977."

(f) DISREGARD OF EARNED INCOME CREDIT FOR CERTAIN PURPOSES.—Any refund of Federal income taxes made to any individual by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance under any Federal program or under any State or local program financed in whole or in part with Federal funds.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I was just going to ask a question of the majority whip or the committee chairman.

Mr. MUSKIE. Mr. President——

The PRESIDING OFFICER. The Senator from Oregon asked for recognition.

Mr. MUSKIE. I offered the amendment, and I wanted to speak to it.

The PRESIDING OFFICER. The Senator lost the floor when the amendment was reported.

Mr. MUSKIE. I will hang around a couple of more hours.

Mr. PACKWOOD. I can assure the Senator from Maine I do not intend to hold the floor for a couple of hours. All I was going to do was ask what we were going to do.

Mr. ROBERT C. BYRD. I was going to ask the same question. I believe I know what the answer is. I do not believe there will be any rollcall votes tonight.

Does the chairman agree with me, that there will be no rollcall votes tonight?

Mr. LONG. I agree.

Mr. ROBERT C. BYRD. Some Senators do want that information.

Mr. MUSKIE. All I want is some time to explain the amendment.

Mr. ROBERT C. BYRD. It is my understanding there will be no rollcall votes the rest of the evening.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I am sure, with that word, my audience will rapidly shrink, but I want to make clear precisely what my purpose is.

The distinguished floor manager of the bill reacted with his customary vigor. There is the feeling that this is a budget busting amendment. Let me make something clear: The budget as of now is the budget that was adopted this spring. This amendment I am offering was part of that budget. If the budget is changed by the adoption of the essentials of the Finance Committee bill, then it might be appropriate to describe this as budget busting, because, as others have said on the floor today, if we were to adopt the Finance Committee bill and then do what seems inevitable, extend the tax cuts in any case, we would be busting the budget.

What we are offering—and I am offering this, incidentally, in the name of myself and my good friend from Oklahoma (Mr. BELLMON) who feels as strongly about this as I do—is an amendment which implements the budget which the Congress adopted this last spring.

It is part of that budget and it is very much a part of that budget.

That is the issue before us, whether or not we take it out of that budget and substitute for it what is in the Finance Committees bill. That is the issue.

If this particular provision busts the budget, it will only be because we adopt the other provisions of the Finance Committee bill. That is why I want the Senate to come to grips with this issue first. If the Senate does not want this amendment to be a part of our current budget policy any longer, then knock it out by voting against this amendment. Then there will be the money to pay for these additional tax preferences, the maintenance of tax preferences, which the Finance Committee bill represents.

I think the choice is as plain as can be, and I think this is the time to raise it. I think this is the time to settle it.

What this will do, and I will explain the amendment in a little greater length for the RECORD as well as those who are still in the Chamber, is this:

The amendment would extend the temporary tax reduction provision through all of fiscal 1977. As a result, taxpayers could plan on being able to deduct either $35 per exemption or 2 percent of their income up to a maximum income of $9,000 from their taxes next year. That is families and individuals with incomes exceeding $9,000 would have their taxes reduced by $180 or more if there are more than five dependents.

We believe this extension is an essential part of the fiscal policy provided in the first concurrent resolution. The objective of that fiscal policy is to continue the economic recovery and bring unemployment down to 6 perent without accelerating inflation. A critical part of that policy is a clear signal to producers and consumers that our policies will aim for a steady and prolonged economic expansion.

Overall, the tax credit provision would reduce tax receipts by $9.4 billion if it were extended for the full fiscal year. The Finance Committee's proposal to terminate the credit on June 30, 1977 would cost $1.7 billion less than an extension for the full year—the revenue gain in the first 3 months is less than one-fourth of $9.4 billion because of collection lags.

The $9.4 billion that the tax credit pumps into the economy each year is essential to maintain the pace of the recovery. Present forecasts indicate that the unemployment rate will be well above 6 percent in the middle of 1977, and that a further extension of the tax cut will be needed if the unemployment rate is to continue to fall at a satisfactory rate. Past CBO estimates of the effect of tax increases of this size indicate that within a year, 270,000 jobs would be lost due to the expiration of the tax credit. The tax credit is the largest part of the antirecessionary legislation passed by Congress last year. It should be kept at least until the end of the recession.

It is completely unrealistic to assume that the tax reduction will not be continued. So let us do it now. The next action that the Congress takes on personal taxes is likely to be a further reduction, not an increase. The Joint Economic Committee in its report to the Budget Committee suggested the possibility of a further $10 billion tax reduction in January. The President has indicated the possibility of a further tax reduction before 1979.

We all know the reluctance of the Senate to raise personal income taxes, even when economic conditions require it. And it is clear from all of the testimony that we have heard that our economic policy will not require the $10 billion increase next June which would occur if the tax deductions expire.

None of the economists that appeared before our committee suggested terminating the current tax reduction. Most suggested the possibility of increasing it further. Progressive income taxes in conjunction with a rapidly raising GNP means that the average tax burden is increasing. It is already high by historical standards and will increase to unprecedented levels in the near future unless further general tax reductions are made. Therefore, I submit that the Congress was wise when it adopted an economic policy that extended the tax reduction through the next fiscal year and that the Finance Committee's counterproposal is unsound.

Moreover, this is the policy it will surely adopt in the end. The reductions will be extended. Revenues will be reduced by $1.7 billion more than the committee report maintains. If the Congress adopts this tax bill, it will be back next spring to produce a third concurrent resolution increasing the deficit by another $1 billion.

Mr. President, I thought it important that at least that much of my view of this issue be in the RECORD, so that Senators who are a little tired of senatorial rhetoric may by tomorrow morning at least have the opportunity to read it.

Mr. HOLLINGS. Mr. President, I commend our distinguished chairman of the Budget Committee. It is not an easy task to be the keeper of our fiscal conscience. It would be a wonderful thing if we could just all forget about that vote on April 12, when this body voted our budget numbers, after being admonished by the chairman of the Finance Committee that it was unrealistic, that it could not be done, that it could not be assumed. He said the continuation of that tax reduction was totally out of the question, because we would have to raise taxes.

Well, of course, if you look at the Finance Committee's report itself what the distinguished Finance Committee chairman said was unrealistic and impossible, you only have to look at the top of page 22 and find out that he could finally do it, $2.5 billion. What he found impossible on April 9, he comes out on June 16, and says, "Now, here it is, I have found out it is realistic, and I propose it."

But the main thing is the unsavory task that none of us would want, and that is to remind us to put our legislation where we put the law. We passed the law, and we told everybody, budgetwise, in America, "Here is the first concurrent resolution. After May 15, you cannot even propose a bill that has not been authorized and reported. And after the admonitions of the distinguished chairman, voting on the minority side, having considered about what was realistic, we voted 3 to 1 for it, but now we come here when the main revenue bill is before us and are put in the position that we are out of order, we are out of kilter, we are budget busting." So I want to commend the Senator from Maine for being very kind, very considerate, and very patient.

This is the problem. It would be very nice to tinker around with everything, spend a lot of time, and then say, "Oh, well, that is their tax reduction; maybe it was a good idea," when we start increasing taxes on people on June 30 of next year. But that is not what the will of the Senate was when we considered the budget resolution.

I would have been one who perhaps would have preferred the Budget Committee to come out with a package to show that since we had found these amounts and levels we would stick with them and show how to achieve them; but that is another matter. Another package is before us, and I happen to be a part of it. The Senator from Maine, our chairman, has kept the integrity of the Budget Committee and the budget process, and I commend him for that,

because we have to either put up or shut up. You could go on talking about the LAL forever, and say, "It is all confusing, and Ernst and Ernst and all the CPA's can never figure it out."

But the $400 million it raises. I can tell you this right now: Every one of those CPA's, Ernst and Ernst, all the accountants and everyone else in this field were able to figure out how to get the $400 million for their clients. But now, when we want to talk about the LAL's which repeal these shelters, it is awfully complex, it is not understood by any of them, no Senator could explain it.

Oh, I can find you people to explain it. My auditor at home can explain it. We are just repealing it, that is all. It is not complicated whatever.

When we get through with this debate, most of the Senate will understand this LAL; but we have got to get to first things first. We have to get to the budget resolution. I wish Senators would turn to the very first part of that resolution, right here at the beginning part. The first thing out of the box on page 6 lists the amounts.

Fiscal year 1977 revenues tax loss as of January 1, 1976, $377.7 billion, extension of December 1975, temporary tax reduction minus $17.3 billion.

That is the Muskie-Bellmon amendment.

Mr. President, I ask unanimous consent that I may be permitted to be a cosponsor in that particular amendment.

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

Mr. HOLLINGS. That is the first order of business.

Then there is the net increase from tax expenditure legislation of $2 billion.

So, it is not only appropriate but very much in order to consider this proposal now.

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

Mr. HOLLINGS. I am glad to yield.

Mr. ALLEN. I ask the question not to discredit what the Senator said but to obtain information. Would it mean, if this amendment is adopted, adding to the tax reduction $1.8 billion? Would that mean then that we would have to eliminate a like amount, $1.8 billion in tax reductions provided by the Finance Committee plan?

Mr. HOLLINGS. $1.7 billion. Yes.

Mr. ALLEN. Is that what this would entail?

Mr. HOLLINGS. That is right.

What we are going to do is fix that $1.7 billion in and then——

Mr. ALLEN. That would eliminate some of the committee reductions; is that right?

Mr. HOLLINGS. That is right.

What we were doing, and the motion just tabled the proposal eliminating $400 million, picking up $400 million of the $1.7 billion.

Mr. ALLEN. So once this is adopted we would have to start looking for places to reduce $1.8 billion in reductions provided by the committee.

Mr. HOLLINGS. So the RECORD will reflect an accurate answer, I ask Senator LONG, who much would it be? I want the record to reflect the actual amount. I am not sure.

Mr. ALLEN. The amount is not so important.

Mr. HOLLINGS. It is $1.7 billion, I am told.

Mr. ALLEN. We would have to start looking for ways to reduce the reductions provided by the committee bill; is that correct?

Mr. HOLLINGS. That is right, or increase the revenue.

Mr. ALLEN. Yes.

Mr. HOLLINGS. That was one of the measures right in the Nelson amendment that we just voted upon.

Mr. ALLEN. So it is a question of whether we want this particular reduction or the reduction provided by the committee bill.

Mr. HOLLINGS. Also, put so eloquently by the Senator from Massachusetts, we must look out for the low-income or middle-wage earners in America to the tune of $1.7 billion, or forget about them, and look at those in the $50,000 and above income bracket who have all of those nice loopholes with oil wells.

The Senator is right. If we pass this $1.7 billion we are going to have to look around, as I am told, for the next additional $1 billion. By adopting the House approach on limitation of artificial losses $400 million can be raised.

Mr. ALLEN. Would that be more or less a single shot approach?

Mr. HOLLINGS. We have a package here, but the Senator from Louisiana, the distinguished chairman, came up with individual sections rather than as a single package.

So we have tax deferrals, foreign tax credits, and Domestic International Sales Corporations. We have plenty to take care of this particular vote if we vote again as we voted on April 12.

Mr. ALLEN. I thank the Senator.

Mr. HOLLINGS. Every Senator should look at the RECORD overnight and put it by his pillow as he lays his head to rest and says his prayers and just see what has happened between April 12 and now to change his mind.

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

Mr. HOLLINGS. I yield.

Mr. PELL. I think we realize it is much easier to vote tax reductions than increases or leaving them as they are. But this is a political body. We have just seen the fate of what happened to the proposal to eliminate some of the more egregious tax shelters that went down to defeat. It would be very easy to pass this, which also reduces taxes. But would not the net result of that be to increase the deficit, increase the debt, and increase inflation?

Mr. HOLLINGS. No, we have not had a final vote on LAL. I think the Senator from Louisiana and the debate showed it was a mistake to include that.

I was one of those who thought it better, but we had a housing program. I used to work on the Subcommittee on Housing. We were 26 million houses shy. We said some 10 years ago we ought to be building 2.6 million units a year. We were building less than 1.3 million. So, with the depressed housing, the building trades, that particular industry in bankruptcy, and high unemployment, we said this is a matter to look into. Let us as a matter of public policy go along with the residential part.

But we can see now from the debate of the Senator from Louisiana and the Senator from Oregon that that was a mistake.

I think perhaps looking overnight at the LAL's and the objectives now presented by the Senator from Colorado we will get a rollcall vote on it, but we will vote to go ahead with the housing provision.

I am not one of those who thinks we win on the first vote. We do not win easy with the Senator from Louisiana and then do not ever think one wins because whenever he walks on the floor and shakes his head it will fall right on the ground. The Senator from Louisiana will get you. He is the sharpest I have ever seen.

So this thing is just beginning. We are not finalizing anything.

This is the book and we have just gotten under the cover. Frankly, we have not even gotten into the title.

One cannot find a Muskie amendment in here.

Mr. PELL. If we pass the Muskie-Bellmon amendment that is done and that means a reduction of revenue for government by $1.7 billion and assurance that we will retrieve that revenue from somewhere else.

Mr. HOLLINGS. We have plenty of choices for the Senator. We have plenty of chances and choices.

Mr. PELL. We are a political body and when it comes to retrieving that revenue, I notice those votes usually seem to go more adversely.

Mr. HOLLINGS. But more each day we find that the best politics is no politics. That is how we got the Concurrent Resolution No. 1. I think it was quite an advancement.

Mr. MUSKIE. Mr. President, may I respond?

Mr. HOLLINGS. Yes.

Mr. MUSKIE. That gets us to the budget resolution. The whole purpose of that is to give us the game plan, a policy early in the session to which we are all committed. So we are all committed to this.

What I offered here is something that passed the Senate overwhelmingly and passed the House of Representatives overwhelmingly. It has been adopted. Now, if we have faith in our joint decisions, and common decisions, we cannot make every one of these amendments that are pending a single decision. We have to make them in the backdrop of common policy. The common policy still includes this tax extension. If we just adopt the position that we have in the past that we are going to take one of these at a time and if we lose one, we are going to lose the next one, and that relieves us of the obligation that we assumed in adopting the budget process, if we do that we are doing the wrong thing. I am running for reelection. I do not lightly introduce an amendment of this kind, not at all, not in my State.

But I do so with full confidence that my constituents understand that this is offered in the context of a budget policy. For a year and a half we made budget policy work. We have made it stick.

May I say to the Senator that the numbers of the second concurrent resolution for fiscal 1976 on spending are coming out virtually to the penny as we approach the end of this fiscal year.

So we should have some confidence in our ability to support a policy once we make it, but we cannot guarantee what the next vote will be. We cannot guarantee what the next vote on LAL will be. But we can be sure that this policy is a policy that has been overwhelmingly approved by Congress just last month.

Mr. PELL. If the Senator will yield, it is the policy he points out that we all in general have supported and do support. But for a political viewpoint, I see no danger in supporting this resolution because any amendment to reduce taxes is not unfavorably received at home.

The question comes up, what will be our stance if we pass the amendment of the Senator which I am sure we very well can, and we do not sufficiently raise the revenue to compensate it? Is it the intention of the Budget Committee at that point or later on in debate to introduce revenue-saving measures or back away from this?

Mr. MUSKIE. We are not the tax-writing committee, as I have been reminded by reading the RECORD last night and reading the RECORD this morning. If I had asked the Budget Committee yesterday to submit a package of amendments of the kind described by the Senator from Rhode Island, the Senator from Louisiana would have lifted this roof so high I could have seen it from northern Maine last night. The Senator knows that. There are plenty of opportunities, some of which I support, as an individual Senator, to produce the revenues. If in the overall exercise we still have not made the books balance in terms of the budget resolution, the legislation will still be before us. I have not committed myself to vote for this bill when we get to final passage. If it is no different from what it is now, I may well vote against it and urge my colleagues to vote against it.

Mr. PELL. Speaking for myself, my concern is with inflation, which I think is the cruelest tax of all. That is why, to my mind, the most important thing is that net revenue remain the same. I like the approach of the Senator from Maine. It is the same as mine. I would rather have the Senator from Louisiana's approach than have a reduction in revenue, and this is what concerns me.

Mr. MUSKIE. I remind the Senator about last year. Last year, inflation was such that we had double-digit figures. Yet, in March of last year, Congress insisted upon a tax cut, a much bigger tax cut than the President wanted, as a minimal stimulus to the economy.

In addition, we adopted the budget which nominally, on its face, the President said was above his. The record proved that our deficit came out about the same.

A year ago this spring, we were talk-about budget deficits on the order of $60 billion. We are ending up with a budget of $72 billion. With that tax cut of last year, which stimulated the economy and turned it around, with the budget policy of last year, the rate of inflation for the first quarter of this year was 3.5 percent. Where was the inflationary impact of last year's congressional budgetary policy? It is not going to stay that way at 3.5 percent because other factors get into it.

The fact is that the congressional budget policy of last year, including tax cuts of the same magnitude we are talk-about here, on an annual rate, allow us to cut our budget deficit by a third this year because of the economy's recovery. This progress shows that the congressional budget policy is moving with the economy and with the changes in it.

I hope that last year's performance would give us some confidence that we have a reasonably good handle on the whole business, because I think our experience up to now has been good. We met our budget targets, inflation went down, the economy is recovering, and people have gone back to work. So the whole business has worked out pretty well.

If we had adopted the President's policies, resisting the tax cut, cutting back on programs for unemployment and so on, removing controls on energy, we would not have the same result.

When I talk about the congressional budgetary policy, I am not talking about ED MUSKIE; I am talking about Congress. That tax cut was enacted by Congress before the first concurrent resolution last year. We were consulted; our staffs worked with the leadership. We had not yet gotten into operation. After our examination of the economic situation, we reaffirmed the wisdom of that tax cut last year. This tax cut is the same one.

The interesting thing is that we have had three major tax cuts since I came to the Senate 18 years ago. We have been told about the growth in Government spending. The fact is that, notwithstanding that growth, if we had a full employment economy, notwithstanding those three major tax cuts since I have been in the Senate, the budget would be in balance. Why? Because the progressive nature of the income tax system and continuing inflation push people continually into higher tax brackets, and that increases their tax burden. We have been trying, as a nation, to keep the total tax take at 20 percent to 21 percent of GNP and no more. That is one basic justification for continuing the tax cut. That is why the President says that by 1979 we may have to cut taxes again.

I refer to my good friend the Senator from Minnesota, who is chairman of the Joint Economic Committee. We get this kind of wisdom from that committee and its staff experts as well as from OMB.

So this tax cut should be continued and made permanent, as we look down the road and see the increasing percentage of GNP that the progressive income tax will take unless we do some such thing. All we are doing right now is continuing it for 3 months more, a continuation which is already mandated by the first concurrent budget resolution.

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

Mr. MUSKIE. I yield.

Mr. HUMPHREY. Today, the Joint Economic Committee held hearings with key witnesses on the very subject about which the Senator is speaking. We had one of the vice presidents of one of the large banks, a trust bank, in New York, and we had Arthur Okun and a leading economist from American University. They all pointed out the necessity of the continuity of the tax cut to which the Senator from Maine is relating his argument, the need for a permanent tax cut along the lines that the Senator is speaking of, and to keep the tax take within that 20-percent bracket. If you do not have tax cuts as the economy improves, with the same rate of inflation, you will start to have a tax rate of 21 or 22 percent, which has a regressive action upon the economy.

By the way, the Senator will be interested to know that Mr. O'Leary, the gentleman who is vice president of the trust company bank in New York City, said that he considered the action of Congress in the passage of the Budget Control Act and the action of Congress in supporting the Budget Committee and its budget resolution has had a very good effect on lowering interest rates and in giving some sense of confidence in the investment community and of sparking the kind of confidence that has been necessary for consumers on the one hand and investors on the other.

That testimony is the high praise we had today for the work of the Budget Committee and for the fact that Congress has supported the recommendations that have come from the Budget Committee. I encourage Senators who are interested to take a look at it. We can supply that information for the RECORD tomorrow.

Mr. MUSKIE. Incidentally, the Finance Committee has jurisdiction with reference to the budget. The Finance Committee has half of the budget right off the bat, because it has jurisdiction over all taxes.

In addition, the Finance Committee has jurisdiction over 40 percent of the spending side of the Federal budget. This is all the income security programs, such as social security.

In the conference report on the budget, we allocated to the Finance Committee $176 billion in budget authority, to be distributed in accordance with spending programs, mostly entitlement programs that operate on formulas which originated in that committee.

So the budget process is nothing if the Budget Committee is told that Finance Committee jurisdiction is off limits. The remainder of the budget is not worth anything if we cannot have something to say, as the Senate as a whole, about these areas.

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

Mr. MUSKIE. I yield.

Mr. ALLEN. It seems to the Senator

from Alabama that the committee has come within the dollar amount of the budget resolution, but it has done this by dropping the reductions, the tax credit, 3 months earlier. It has developed an overall plan, as shown by the bill reported, which would come within the dollar limitations of the budget resolution.

What disturbs the Senator from Alabama is that if the amendment that the Senator from Maine has offered is adopted, it would mean that while the budget might not be busted, the plan of the committee to come within the confines of the budget resolution certainly would be busted. That would mean that the Senate then would have to completely rewrite this bill on the floor.

That is what seems to me to be the questionable feature that is embodied in the Senator's amendment.

Does the Senator think it would be wise to disregard the work of the committee and work this matter out on the floor and put back in $1.8 billion in revenue or cut out $1.8 billion in tax reduction? Is it practical to write a major tax reform bill here on the floor?

Mr. MUSKIE. Well, let me put a question to the Senator: Of what use is it for Congress as a whole to adopt a budget if it then can be unilaterally rewritten by every committee acting on its own? If the Senator will read through the report on this tax bill, he will find, over and over again, that the Committee on Finance is justifying its decisions on the basis of its economic judgment. Well, Congress, as a whole, made its economic judgment in the first concurrent resolution. If each committee is going to adopt its own economic judgment to justify more or less spending, more or less revenues, more or fewer programs, will we not end up in the same kind of anarchy that we had before?

We cannot have it both ways. If the committee had come to us and said, "Look, we scratched our heads and we did our damnedest to come up with $2 billion in tax loopholes and we could not do it—we could not do it; all we could bring up was a net of $1 billion again, so we are coming back to the Senate and saying we could not do it; this is the best we could do"—that would be one thing. But when, instead of doing that, they tell us that they are going to change the economic policy—and that is the effect of it—in the first concurrent resolution; when they conclude that tax cuts ought not to be extended for the last 3 months and, as a consequence, they are able to come technically within the $15.3 billion of tax reduction—that is not the same policy. That is not the same policy at all. If it is, then somebody else ought to be chairman of the Committee on the Budget, because I have no fiscal intelligence whatsoever. If anybody can persuade me that those two policies are the same, I will eat it.

I can understand why a committee may not be able to meet a target, or say, "Now, look, we cannot meet your target on tax reform. We have met your target on tax extension; that leaves us $1 billion short, so we leave it to the Senate. Do you want to increase the deficit by $1 billion because we were not able to come up with that in reforms, or do you want to try to add reforms on the floor, or do you want to end the tax cut as of July 1?"

If those options had been presented to the Senate in that form, that is a legitimate committee report. I can understand that. I expect that the committees in charge of energy legislation may be coming to us before the year is over; indeed, we anticipated that policy in some of the discussion. I think the Senator remembers.

They may say, "Now, look, we have been provided these dollars for energy. But we have gone over everything that we think makes sense and we think we ought to spend another $0.5 billion or $1 billion." The budget process contemplates the possibility of that kind of committee report. We do not have manacles or handcuffs. But to tell me that this bill represents the same policy that the first budget resolution represents and pass it off in that sense, to me, makes a mockery of the whole process. If that is what the Senate is going to make of it, I would rather have nothing to do with it.

Mr. ALLEN. To undo that, it does require the Senate to take on the monumental task of rewriting the bill here, on the floor, is that not correct?

Mr. MUSKIE. Well, it is monumental and I do not like to write tax bills on the floor any more than anyone else. But we do it. We rewrite appropriations bills. We rewrite other complicated legislation. Before long, as the Senator knows, I shall be floor managing another one of these things called the Clean Air Act. That is about as complicated a piece of legislation to try to rewrite on the Senate floor as I can imagine. But the effort is going to be made. Changes may well be adopted. That is what the Senate is all about.

I hope we do not get into a Christmas-tree attitude about it, but I think there are a half-dozen legislative issues which can help us decide whether, on the Senate floor, whether we can make up the revenues to help pay for the extension of the tax cuts. If we cannot do it, the legislation will still be before us for whatever jurisdiction anybody wants to make of it.

Mr. GRAVEL. Mr. President, the Senator from Alabama makes a very good point. That is that if the Muskie amendment is adopted, it will require the rewriting of this entire bill.

Mr. MUSKIE. I would not say that.

Mr. GRAVEL. I have not interrupted the Senator from Maine.

Mr. MUSKIE. "Entire" is a big word.

Mr. GRAVEL. Certainly, it is within the purview of the Senate to rewrite that bill.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Mr. MUSKIE. Yes; I do.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. I think it must be understood that the first concurrent resolution was really a guideline, backed up by report language. It was more than improved upon by this body as a result of 18 days of hearings and almost a full month of markup. This bill is the best work that this committee could come up with, as it addressed itself in detail to this fiscal issue. This is the product of our work.

It may not fit to a "T" what those who drafted the first concurrent resolution want. But those who drafted the first concurrent resolution did not have 18 days of hearings on these tax issues. How could we expect them to write a bill that would be as precise as what the committee has come forward with?

For the leadership of that committee now to say, you are busting the guidelines of what the Senate has voted on is absurd. The Senate has acquired a good deal more knowledge since that first vote took place, and this tax bill is the product of it.

The Committee on the Budget is not being assaulted. They will continue doing their good work. But their good work is to offer a cap, which we have met, and to offer some guidelines. But, because of our additional knowledge, we should be able to alter and present our alterations to this body.

Mr. LONG. Will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield.

Mr. LONG. Can the Senator explain to me, if the argument of the chairman of the Budget Committee is correct, why were some of us on the Committee on Finance sitting from 9 o'clock in the morning until 5 o'clock in the evening for months, then attending morning sessions and afternoon sessions for 5 weeks, considering the pleas and entreaties of people in all walks of life for some type of consideration in this tax cut, when no relief could be granted to them because the $17 billion was to be sacred, because that is what the chairman had in mind when he gave us a $15.3 billion figure and the committee could not consider the needs of energy producers, or people who wanted to conserve energy, or housewives who had little children to care for, or anything else—low income people or businesses that were suffering. Can the Senator explain to me what would have been the point in inviting all those poor souls to come here at their own expense and explain their problem to us if we could not do anything about it?

Mr. GRAVEL. It would have been an exercise in futility, and I am sure the Senator from Maine did not mean that to be the case. But in a real sense that is essentially the argument he is making—that the Budget Committee report recommendation, is sacred, and that our committee had no jurisdiction to go in and legislate changes based upon numerous hours of hearings.

Mr. LONG. May I ask the Senator, does he agree with me that Mr. MUSKIE's amendment is a budget-busting amendment? It busts the budget.

Mr. GRAVEL. Not only that, but it is filled with difficulties. Of course it is easy to cut taxes. Let him sit and go over the 18 days, go over every little detail.

Of course, the argument they use is a very glib one, and that is that we are protecting the wealthy. I will tell the Senator that poor people buy houses, too, and when you turn around and hurt the

housing industry and the savings bank industry in this country it is going to have an impact on the poor people, and it is going to take a lot of middle-income people with it.

Mr. LONG. Mr. President, will the Senator yield for another question?

Mr. GRAVEL. Yes.

Mr. LONG. We agree that Mr. MUSKIE's $17 billion is budget-busting; and if we buy the argument, then the Senate must not agree to any other budget-busting amendment, but only Mr. MUSKIE's budget-busting amendment can be voted for. Otherwise we would bust what Mr. MUSKIE had in mind when he voted for that budget resolution. That is the fact, is it not?

Mr. GRAVEL. No question.

Mr. LONG. May I state that is the strangest endorsement I ever saw pleaded for by a committee chairman—for the chairman of the Budget Committee to plead with the Senate to bust the budget as an endorsement of the Budget Committee, vote to bust the budget because that will endorse the Budget Committee. Has the Senator ever heard a similar entreaty for votes in his life before to ask somebody to do just the opposite of what he is going to be doing—to vote for sin in order to endorse the preacher. Can the Senator explain that kind of logic?

Mr. GRAVEL. I would suggest to the distinguished chairman of my committee that that logic does beg reason a little bit. It does beg reason somewhat.

I thank my colleague. The hour is late and we should hang onto some of our wisdom for tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—does the Senator from Massachusetts seek recognition?

Mr. KENNEDY. Yes.

Mr. President, the hour is late and I will not indulge the Senate long, but I do want to indicate that this is one Senator who supports the position and the logic of the chairman of the Budget Committee and the statements that have been made by the chairman during the course of the discussion earlier here this afternoon in establishing ceilings and recommendations in terms of the tax expenditures.

I thought the presentation of the chairman of the Budget Committee was extremely persuasive. I thought it was extremely logical and I thought it was extremely sensible and compelling.

Mr. President, the basic question the Budget Committee was wrestling with is this: The Budget Committee has responsibilities in terms of the disbursement of appropriations; they have responsibilities in terms of the receipt of revenues. And they have made recommendations in terms of the tax expenditures, the fastest growing expenditures that exist in the whole of the Federal budget, and which have very profound impacts on the economy.

There is a very significant difference between the kinds of tax cuts that are being recommended now by the chairman of the Budget Committee which is to restore $1.8 billion to low- and middle-income people, putting the money into the hands of consumers, with all the implications that has in terms of our economy, and the recommendations of the Finance Committee, which is to take that tax cut away in order to afford more tax expenditures.

There cannot be any question about the dramatic contrast between the impact of these two different proposals on our economy.

So there is an extremely important question as to whether the Senate is going on record for continuing the tax cuts, which would mean support of the Muskie amendment, to return $1.8 billion to American consumers.

So I, for one, I must say I was unpersuaded by the argument that the only function of the Budget Committee was just to set the total number on revenues.

Within that total figure, there can be dramatic differences in terms of the economic impact on this country. Obviously, in establishing the Budget Committee, Congress wanted a more responsible function of the Senate as an institution on economic questions. That was my interpretation in voting for the Budget Committee resolution.

So, Mr. President, I support the position that has been taken by the Budget Committee. If we support that position, we shall have to raise revenues elsewhere. And a good place to start is the amendment of the Senator from Wisconsin (Mr. NELSON) on tax shelters.

Now, that issue has been debated and discussed earlier. If you are satisfied with the reasoning of the chairman of the Finance Committee, I suppose you are not under a compulsion to vote in support of the Muskie amendment. But if you support the budget resolution, which quite frankly, I feel is the only logical position consistent with the establishment of the new budget procedure, this particular amendment makes sense.

It makes sense from an economic point of view; it makes sense from an equity point of view. There is not a Member who cannot support this, and also support the very bare-bones recommendations of tax reform we are asking we will comply with the budget resolution, and we will also provide an additional degree of tax equity for the American people.

I fail to see, Mr. President, how we can accept the measure that was reported out by the Finance Committee, which increases taxes for many families by $180 a year or more. I think every family in this country ought to understand that. If we do not accept the Muskie amendment, their taxes are going up by $180, while the Senate will continue to allow $400 million in tax shelters to go free. We should not take $180 from the average family, and give it to the big boys.

I think that is what the Muskie amendment is all about, and I will look forward to debating the issue more completely tomorrow.

Mr. LONG. Mr. President, I had thought that we had disposed of the budget point when we discussed the matter and everybody on the Finance Committee agreed that the Finance Committee was right, and stood up and said so and everybody on the Budget Committee stood up and said we were right, except one man, Mr. BELLMON. Apparently Mr. BELLMON and Mr. MUSKIE, who sent that letter, were not moved at all, even though everybody on that committee, aside from themselves, stood up and seemed to agree with us.

I did not expect Mr. HOLLINGS to take a different view than he did because I understand from the beginning he urged that the Budget Committee ought to write the tax law for us, and offered it as a substitute for whatever the Senate Finance Committee reported. So I can understand Mr. HOLLINGS would be the third Senator who would agree with the position taken by Mr. MUSKIE—Mr. MUSKIE, Mr. BELLMON, and Mr. HOLLINGS.

But I would think that, based on what the Senators have said here, the majority of those on the Budget Committee who expressed themselves had thought they felt the Finance Committee was clearly within its jurisdiction. There is a compliment implicit in the amendment offered by Mr. MUSKIE. He heard Mr. MONDALE stand here and say that the Finance Committee was clearly within its jurisdiction, even though Mr. MONDALE serves on the Budget Committee. Mr. MUSKIE offered an amendment that included the Mondale amendment in it, so that Mr. MONDALE would, in effect, say that the Finance Committee was outside its jurisdiction when he votes for the Mondale amendment.

Now, the Senator offered this amendment to bust the budget, a bust-the-budget amendment that will be endorsed by the Budget Committee.

As I say, that is about the same thing as a preacher saying, "Go out and commit sin as an endorsement of your preacher."

Mr. President, the President will undoubtedly speculate as to why all this happened. Why would those who seek an endorsement of their position not face the issue straight on, but offer a budget-busting amendment?

Budget busting as a tax cut that would knock the budget out of balance, to seek an endorsement of themselves. I can only assume that either they are not confident of their own position and they do not want a straight up and down vote on the issue, or else it would mean, I suspect more likely, that they were shocked how badly they lost that first vote and that this is a diversionary tactic to reorganize, regroup, and change strategy.

So we will see what the new strategy will be as time goes by.

Mr. President, I had indicated that I wanted to go seriatim, by title in sequence, in considering amendments to this bill.

I thought the group that is going to support the Muskie amendment agreed that was how we would do business under title III, and I thought we had an understanding that we were going to proceed in that fashion.

I see that apparently we do not agree, or maybe some minds have been changed.

But, in any event, we will try to see that the Senate does proceed in that fashion.

I think that Mr. MUSKIE, in seeking to argue the way a preacher can gain en-

dorsement is for his congregation to commit sin, will find we are equally resolved at meeting those tactics and we will find ways to bring this matter to a vote on its merits.

Frankly, Mr. President, as far as this Senator is concerned, if the other side want time to regroup, that is all right with me. We have from now until January 1 to pass this bill and we can take all the time that might be necessary.

I do not have to go to that Democratic National Convention. But I do not think it would be right for us to adjourn and go home without voting on this bill.

So, I say to the Senators, do not worry if you want to drag this on while you regroup and plan your new tactics. It is perfectly all right with the Senator from Louisiana. I will be here all through that convention, and you can be here, too.

So we will work it out and I welcome this deceitful challenge. We will meet it for what it is, and in due course we will get on with the bill. The bill will pass.

Well, the word is out. The bill will pass. The people, indeed, will get their tax cut. It will just take longer, because those who saw the way the first vote went were disappointed and they need time to regroup.

Mr. CURTIS. Will the Senator yield?

Mr. LONG. I yield to the Senator.

Mr. CURTIS. Mr. President, I commend the distinguished chairman of the Finance Committee for his opposition to the Muskie amendment.

Somewhere, we have to put a halt to reducing taxes and reducing taxes, and at the same time increasing expenditures.

It seems to me that fiscal responsibility is going out the window in order to achieve a prestige advantage for a committee.

Mr. President, I view this not only as a dangerous budget-busting proposal, but also almost a bribe to get the Senate to vote a certain way.

I submit that everybody understands, and understood when the budget law was written, that the Budget Committee had jurisdiction over totals and targets.

The committees responsible for holding the hearings and doing the work might well decide that instead of a credit of $35 that they wanted to give it only $25 and use the other money to relieve something that is very much in distress.

Did the budget law take that right away from us?

If we have the right to lower the amount of a reduction, lessen the amount of a reduction, certainly we have a right to have the reduction for a shorter period of time.

But aside from that, aside from the fact that there is a desire to have the Senate take action that really writes a tax bill before the hearings have been held and that taxpayers heard from, this amendment should not be passed on the basis of the addition to the deficit.

Without a doubt, the tax cut in the light of some deficit spurs our economy a little bit, but there is a point where the loss of confidence of the people of the United States toward their Government, that all stimulus fails to act in the expected way.

We can carry this so far. In more tax reduction and more tax reduction, until investors, planners, workers, everybody, decides that Washington is irresponsible, that we never expect to balance our budget, that there will be no bonds ever paid out of a surplus, that the only chance of anybody getting their money on their bonds or even the interest, is to borrow more money.

It is frightening. It is frightening to have the man who is charged with bringing the budget under control to lead the charge to add to the deficit.

It is frightening that that should happen.

Here is something else. The Budget Committee has not brought in an item to eliminate waste, to reduce expenditures, to eliminate an obsolete program. They have never raised their voices, the majority, against the expansion of the welfare state, and that is where the money is going.

Forty cents out of every dollar spent here in Washington goes to direct benefits for individuals. Fifteen cents to States and localities, and they pass on 5 cents of it. That 55 cents, add the 8 cents for interest on the national debt, 26 cents for defense takes us up to 89 cents, and all other functions of the Government only cost 11 cents.

How many years are we going to have to wait on the Budget Committee to come in with some suggestion on the biggest item in our budget?

We will never get rid of a $76 billion deficit. Like tweedledee and tweedledum on a small matter, if you added them up, it could not reduce the budget very much.

We are going to have to decide on less government.

We could go along and borrow and never pay off anything, borrow to pay the notes off, thinking we can slide along until our terms of office are over. But there will be a Congress here which will take it one step too far. We will not go bankrupt, but we can have a ruinous inflation.

It took 185 years for us to reach expenditures of $100 billion. In 9 years we reached $200 billion. In only 4 more years we went to $300 billion and then before we could get our breath the Congress this year voted a budget of over $400 billion, deficits of $75 billion and $100 billion.

I realize there are only a couple billion dollars or so involved here, but it is that much more irresponsibility; it is that much more Government without paying for it.

Who are we benefiting?

The tears have flowed down this aisle tonight for people of low income. Who suffers most from inflation?

We are not doing the poor and the people of modest income, any good by running an irresponsible Government, and that is what we are doing.

I respect the views of every individual Senator here. But take the issue of food stamps. There is over $6 billion for food stamps. The program started out to be a program of nutrition, to keep people from starving, from becoming undernourished. We are heading for having 25 percent of the population on food stamps.

We had 10 rollcalls that would have reduced that program by $2 billion, and a majority of the Budget Committee voted no on every one of them.

I say it is time for them to start a crusade to balance the budget and to be responsible. I am frightened over the idea of a grab for power, with responsibilities thrown out the window and the Members offered a chance to vote for a couple billion dollars further cut. What for? To prove the position of the Budget Committee that their assumptions were binding upon the Senate and upon the Finance Committee.

That is all it is about and everybody knows it. Some people are a little more polite than the junior Senator from Nebraska, but there are certain things that have to be said and have to be told.

The thing that is in back of this is to establish a precedent that not only the totals and what the resolution says are binding on other committees, but that a committee that has not held any hearings, that has never given the taxpayer a chance to appear and testify, determines the content of a tax bill before it is ever introduced and referred to a committee.

Mr. President, I would hope that when the mover of this amendment thinks it over he will withdraw it. He is a man of high standing, character, integrity, and I know he is patriotic, but there is such a thing as financial responsibility.

If we want to serve our country, the best way to serve it is to retard and eventually stop the fires of inflation. That, Mr. President, is the test of who is for the poor and the people of low income.

ADDITIONAL STATEMENTS SUBMITTED

Mr. HUGH SCOTT. Mr. President, facing us now is one of the most difficult issues to face any Congress—tax revision legislation. As we discuss this legislation let us remember that as "No man is an island," neither is any particular provision of this bill without ramification upon our Nation.

For example, U.S. taxation of foreign source income and the DISC provisions all have an impact not only on the amount of taxes generated, but on the entire economy, and at this point in our Nation's economic recovery, we cannot ignore the possible consequences of tax revisions on economic recovery.

A recent survey by the Business International Corp. showed that the elimination of the foreign tax credit and deferral of taxation of foreign-source income would have meant, in the sample year—1973—a loss of $6.61 billion for all U.S. firms.

The elimination of DISC alone could cost U.S. firms as much as $1.4 billion. Such losses would obviously have a deleterious impact upon the U.S. economy.

First of all there would be a loss of jobs. The Library of Congress estimates that the elimination of DISC could cost as many as 104,000 jobs. These losses do not include the possible loss of jobs due to the elimination of tax deferrals and foreign tax credits. The Business International Corp. estimates from its survey that the elimination of these three provisions could cost the U.S. economy as

many as 750,000 jobs. I realize that these projections are just estimates, but can our Nation afford at this time, to find out just how much these tax provisions do affect the job market?

Besides the possible loss of jobs, we know there will be other problems created for industry. United States firms would not expand their capacity, productivity would drop, as less goods are required.

Last, less income would adversely affect capital formation. Secretary Simon recently stated:

> Any curtailment of DISC would be particularly unfortunate at this time, when the economy is in the midst of recovery. It would increase our present problem of capital formation by raising taxes on capital at a time when they should be lowered.

Mr. President, others will advocate the elimination of these provisions with all good faith and will quote negligible figures on the cost of jobs and income. But suppose it is their estimates that are incorrect. A wrong move now will not only affect the Treasury, but the entire economy and could halt all economic recovery. I ask each of us to consider what price we would pay for this type of "tax reform."

Mr. HOLLINGS. Mr. President, just 2 months ago, I and several of my colleagues approached the Senate on the subject of tax reform, and we suggested a variety of methods by which the Congress could begin the task of presenting the American people with a more equitable tax code.

It was an appropriate time for discussing tax reform. The Senate had just completed action on the first concurrent budget resolution for fiscal year 1977. That was a rather historic occasion for several reasons, not the least of which was the inclusion in that resolution of a $2 billion target reduction for so-called "tax expenditures," the amount of money the Federal Treasury loses each year because of various tax exemptions and "loopholes." In adopting the first concurrent resolution, the Senate clearly challenged the Senate Finance Committee to commit itself to a meaningful reform of the tax laws.

If it was an appropriate time then for discussing tax reform, today it is absolutely essential, because the Senate Finance Committee—in direct and clear contravention of the mandate presented it by the Budget Committee and the full Senate—has chosen to report to the floor a tax bill which does not achieve significant tax reform, which does not raise the $2 billion in the manner recommended by the first concurrent resolution and which deprives the low- and middle-income wage earners and the elderly of badly needed tax reductions.

What is more, the Finance Committee bill, adding insult to injury, lowers taxes for the Nation's wealthiest taxpayers and effectively limits a series of badly needed reforms of the tax laws relating to the foreign operations of American corporations.

I find the action of the Senate Finance Committee entirely unacceptable for two related reasons. For one, the American people are demanding reform of the tax laws. Each year, the middle-income wage earner finds himself shouldering proportionately more and more of the burden of paying the country's way. He and she are aware of the implications of deficit financing, and they are aware, too, of the sorry record of the Congress in getting a handle on Federal spending. Second, they are certainly aware of the much-ballyhooed new budgetary process we have implemented in the Congress, a process which is designed to bring discipline and planning to our appropriations procedures and which I believe is the best chance—possibly our last chance—to eventually balance the Federal budget.

The Finance Committee bill, in blunt terms, simply lies to the American people and makes a sham of the budgetary process we have worked so hard to embrace. It is a tax ripoff masquerading as tax reform.

Let us look for a moment at the issue in tax expenditures of the loopholes and the shelters which have grown, hodgepodge over the years, into a major area of tax inequity. I have been a Member of the Senate for 10 years, and during that time there have been four "tax reform" bills which purported, in one form or another, to give the American taxpayer a fairer shake. The facts speak otherwise. In 1967, tax expenditures amounted to about $38 billion, and it is estimated that they will amount to $105 billion in fiscal 1977, a figure which exceeds the defense budget. Economists project that lost revenues through tax expenditures will increase to a grotesque $150 billion by 1981 if the Congress takes no action to stem their growth. So much for the four "tax reform" bills which I have been acquainted with during my service in the Senate.

Realizing that each time the Congress tried to come to grips with the Federal deficit it looked almost exclusively at cutting direct expenditures, the Senate Budget Committee, pursuant to the Budget Act, this year examined the realm of tax expenditures, recognizing that they are a potent aspect of Federal spending. And we determined, after a close examination, that a $2 billion reduction in tax expenditures was a realistic target for fiscal year 1977.

The $2 billion figure was a modest proposal. As I pointed out in April, the Congress could take affirmative action in several areas—eliminating the DISC provisions, strengthening the minimum tax provisions, eliminating the deferral of tax on foreign income of U.S. corporations, reducing the foreign oil income tax credit—and raise an immediate $4 billion for fiscal 1977 from tax expenditures. And since that was merely skimming the surface of possibilities, I assumed the budget resolution figure of $2 billion would be easy to achieve.

Somehow, the Finance Committee found even that humble task impossible. After a long and arduous struggle, the committee has reported out a bill that raises just $1 billion through the reduction of tax expenditures. In order to raise the other $1 billion recommended by the first concurrent resolution, the committee has decided to terminate the $35 per person tax credit after June 30, 1977. In order to help finance new tax loopholes in the future, the committee proposes a delay in the effective date of changes in the retirement income credit. At the same time that it takes away the provisions so important for low- and middle-income and retired taxpayers, the Finance Committee bill lowers taxes for the wealthy by reducing from 70 to 50 percent the top tax bracket rates on unearned investment income such as idividends and interest, action which benefits only the richest 1 percent of the people. And it dismantles much of the House-passed legislation aimed at closing tax shelter loopholes.

Additionally, the committee bill plays a neat game of hocus-pocus on the entire question of tax expenditures. The reason the Budget Committee recommended a $2 billion reduction in tax expenditures this year was to give thrust to the idea that we ought to get a handle on this aspect of potential revenues, that we ought to cut its growth. The Finance Committee bill has no effect on reducing these expenditures in fiscal 1978 and, indeed, allows them to grow by $5 billion by 1981.

In no way is this tax reform. It is the same old shell game, and the American people—if we allow it—are the guaranteed losers.

Clearly, the Senate is faced today with a defial of the integrity of its new budgetary process and the certain and definite desire of the American people for real and lasting tax relief. And it is for these reasons that I am supporting the package of amendments we have introduced to the Senate Finance Committee tax bill.

They are simple, straightforward amendments. First, in order to insure that wealthy individuals pay their fair share of taxes, we propose to raise the minimum tax from 10 to 15 percent, repeal the deduction for regular taxes paid, and reduce the exemption from its present $30,000 to $10,000. And we want to apply these changes to corporations. We passed a minimum tax law in 1969 after learning that 155 individuals with over $200,000 of adjusted gross income paid no taxes. Despite the law, there were 244 individuals in 1974 with adjusted gross incomes over $200,000 who paid no taxes. This proposal alone would raise revenues by $800 million in fiscal year 1977.

Next, we propose to delete the Finance Committee's action extending a 50-percent maximum tax rate to unearned income. This benefit would apply only to the richest 1 percent of the people of this country and would cost the Federal Treasury $50 million in fiscal 1977 alone—$250 million in the long run. The rich are already getting a $680 million benefit in the present maximum tax; I see no need to give them more.

The Finance Committee bill rejects the House-passed LAL provision entirely. We propose to put that provision back in the Senate bill, with the exception that LAL would not apply to residential real estate, and we can increase Federal revenues by $375 million in fiscal 1977 by this restoration.

Next, we suggest phasing out the tax deferral provisions which apply to the foreign profits of American multinational corporations. Under the present law, the profits of a foreign subsidiary are not taxed until they are returned to this country. In addition to giving the multinationals a nice tax break, this provision encourages American corporations to develop overseas, with an accompanying outflow of capital and plants—and, importantly, jobs—from the United States. In truth, if I were president of a large corporation, I would do the same thing. If you told me I had to pay taxes on my profits only when I brought them home, I would just never bring them home. I would continue investing and reinvesting in foreign countries with low taxes, building my factories in Saudi Arabia rather than South Carolina. This kind of loophole cannot be justified, especially in a time of high unemployment in the United States. Unfortunately, the Finance Committee seeks to end the deferral only for corporations paying foreign bribes or boycotting Israel. It should be extended across the board, and what we are proposing is to make 50 percent of earnings eligible for deferral in 1977, reducing this figure by 10 percent each year until it is fully repealed. We could increase revenues by $100 million in 1977 and $365 million over the long haul.

Next, we propose a stronger DISC provision, one that would eliminate the fat from the existing law. I, for one, favor the total repeal of the DISC provision, because I am convinced that it has failed in its avowed purpose. At the very least, DISC should be made more efficient. As originally proposed, DISC was designed to aid small companies in setting up export capabilities, thus creating more domestic jobs. Since its implementation in 1971, DISC has been responsible for, at most, $½ to $1 billion in export increases. Total domestic exports amounted to $108 billion in 1975 alone, so you can see the less-than-salutary impact this provision has had. The vast majority of DISC revenues have gone to the large multinationals, and they would have exported whether they had the program or not. Has DISC created more domestic jobs? A recent estimate of the House Budget Committee, using data provided by the Bureau of Labor Statistics, indicates that a $400 million increase in exports, assuming the increase was entirely due to DISC, created 15,960 new jobs in 1974. If we had taken the $1.5 billion we have lost in tax revenues through DISC, we could have applied them through other programs and created many, many more jobs than the 15,000 allegedly created by DISC. We propose the adoption of a so-called "incremental" DISC amendment which is stronger in several respects than that proposed by the Finance Committee. For one, we raise the export sales percentage from 60 to 75 percent, we provide a base period of 3 out of the 4 prior years but we move it immediately instead of allowing a 3-year grace period, and we repeal the provisions for military export sales. We can improve the Finance Committee figures by $100 million in fiscal 1977 and by $700 million over the long run—about half the revenue loss from DISC at the present time. At the same time, we will have applied the provisions where they were meant to have a major impact from the start—the companies actually increasing their exports, especially the smaller companies, to whom we give a small business exemption of $100,000.

Finally, we propose to limit the amount of the foreign tax credit for oil and gas to the statutory corporate tax rate of 48 percent, where the allowable credit now is 50 percent. The amendment also allows the Treasury Department to deny foreign tax credits in cases where a multinational, for instance, is paying royalties and not taxes and which should be declared as tax deductions and not credits. We can raise $100 million in revenues in fiscal 1977 through this provision.

The adoption of these amendments is a beginning toward comprehensive tax reform. While they involve compromise, their adoption will have a significant impact. We would lessen the burden on the lower- and middle-income taxpayer by extending the tax credit for the full year, and we would immediately implement the House reform and revision of the retirement income credit, which is so important to elderly Americans who must live on a fixed income. And while we do these things, we will raise revenues by $1.3 billion above the $1 billion accomplished in the area of tax reform by the Senate Finance Committee.

I submit to the Senate that this course of real tax reform is the one we must take. The budgetary process we have implemented in Congress with great pain and great expectations is still in an embryonic stage. If we choose, we can kill it. We can either shoot it to death by refusing to accept the limitations our budget committees propose, or we can deceive it to death by kidding ourselves about "effective dates" and half-way measures while we look the other way. In either event, death will be just as certain. That is the challenge the Finance Committee bill poses.

I doubt if the committee's tax bill, when its particulars become known, will deceive the American people. They want to be led, not misled. They are not fed up with the institutions of Government. They are fed up with the high-handed attitudes their Government displays. They are not worried about finding solutions to problems in this country. They are afraid that solutions are often diverted by self-interest.

We have an opportunity, by adopting these amendments, to end the rhetoric and platitudes surrounding the issue of tax reform and do something constructive for the working men and women of America. We have the opportunity to restore public confidence in Government in a time when it is sorely needed. We have an opportunity to buttress our new budgetary process, giving it the opportunity to shape responsible action in the future.

I trust we will not ignore these opportunities.

ROUTINE MORNING BUSINESS

(The following routine morning business was transacted today.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Roddy, one of his secretaries.

ACTION ANNUAL REPORT—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I herewith transmit the ACTION Annual Report for fiscal year 1975 as required by section 407 of the Domestic Volunteer Service Act of 1973.

GERALD R. FORD.

THE WHITE HOUSE, *June 17, 1976.*

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

I transmit herewith the Annual Report of the National Advisory Council on Adult Education for Fiscal Year 1976, as required by Section 311(d) of the Adult Education Act of 1966 (Public Law 89-750), as amended.

GERALD R. FORD.

THE WHITE HOUSE, *June 17, 1976.*

PROPOSED LEGISLATION RELATING TO SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was referred to the Committee on Finance:

To the Congress of the United States:

I am today submitting to the Congress a legislative proposal that will correct a serious flaw in the Social Security system. This proposal is one of three components of my 1977 budget and legislative program intended to insure a secure and viable Social Security system. My strong personal commitment to Social Security embraces both a genuine concern for the 32 million persons who currently depend on Social Security benefits for income, and an unyielding dedication to protect the financial integrity of the system for the millions of workers who will depend on it in the future.

My program to insure the integrity of the Social Security system, as outlined in January of this year, includes:

First, a full cost-of-living increase for

all beneficiaries, scheduled to take effect in checks sent out in July of this year.

Second, an increase in Social Security payroll contributions by three-tenths of one percent for both employees and employers. This increase would remedy the immediate, short-term financing problem facing Social Security. It would stop the drain on the trust funds—which are now expected to pay out about $4 billion more in benefits each year than they take in. This correction would cost no employee more than $1 per week in additional contributions.

Third, legislation to correct a serious flaw in the Social Socurity benefit structure which, if left unchanged, would undermine the principles of Social Security and create severe long-range financial pressures on the system. My proposal would eliminate this flow and would be a major step toward resolving the long-range financial problem. It would help stabilize the system and permit sufficient time for careful and thorough analysis of the remaining future financial pressures.

What is the status of these items?

I am happy to report that the full cost-of-living increase will be included in July Social Security checks. Unfortunately, the Congress has so far avoided its responsibility to provide a means of paying for the full cost of the system.

The proposal I am submitting today corrects an inadequate method of adjusting benefit payments which, over time, could mean that many new retirees would receive Social Security benefits in excess of the highest earnings they ever received. Such a result was never intended and is clearly undesirable, both from the standpoint of the individual and the excessive costs to the system.

My proposal would correct this defect by ensuring that future retirement benefits are a constant share of preretirement earnings. This produces three important improvements:

—It eliminates the long-term financial deficiency associated with the flaw (about half the projected long-range deficit), and moves more closely to the system which Congress intended to create in 1972;

—It helps to stabilize the system despite variations in the economy; and

—It makes individual benefits more predictable than under the current system.

To insure fairness to those approaching retirement as these proposals are implemented, I am suggesting a 10-year phase-in period during which those persons retiring will be assured that their benefits are no lower under the new formula than they would have been under the old formula at the time the law goes into effect.

The correction of the flaw will be a major step toward bringing the system back into financial balance over the long term. But it is not the complete solution and we should not pretend that it is. The Social Security Trustees estimate that even with this legislation, sizable long-term financial pressures remain.

There is sufficient time, however, to analyze this situation and to correct it. If action is taken promptly on my proposals the system will not be in jeopardy. But this should not delay our efforts to identify the further steps needed to protect the system's permanent financial integrity.

Over the next few years I intend to work with the Congress in resolving these problems. But the time to begin is now. We must begin immediately to solve both the short- and long-range problems. The corrected benefit formula that I am submitting today would eliminate more than half of the estimated long-range financial problem. The 0.3% increase in employee and employer contributions which I proposed earlier this year would bring the system into current balance.

In order to protect both those who currently receive benefits and those who are contributing to the system toward their future retirement, I urge the Congress to move immediately to enact these two vital proposals into law.

GERALD R. FORD.

THE WHITE HOUSE, *June 17, 1976.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:32 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 18. An Act to amend the Act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes.

S. 3161. An Act to authorize certain flagpoles to be located on the Capitol Grounds, and to improve the flow of traffic to and from the United States Capitol Grounds and the National Visitor Center.

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. METCALF).

At 1:18 p.m., a message from the House of Representatives delivered by Mr. Berry announced that the House has passed without amendment the following bills:

S. 3147. An act to extend the Marine Protection, Research, and Sanctuaries Act for two years; and

S. 3122. An act to extend the authorization for appropriations to carry out the Endangered Species Act of 1973.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 14235. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes; and

H.R. 14237. An act making appropriations for Agriculture and Related Agencies programs for the fiscal year ending September 30, 1977, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting a report, pursuant to law, entitled "Federal Efforts To Protect the Public from Cancer-Causing Chemicals Are Not Very Effective" (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation to amend the Social Security Act (with accompanying papers); to the Committee on Finance.

REPORT OF THE PUBLIC DEFENDER SERVICE

A letter from the chairman of the board of trustees of the Public Defender Service for the District of Columbia transmitting, pursuant to law, the annual report of the Service for the fiscal year 1975 (with an accompanying report); to the Committee on the District of Columbia.

DONATION OF CERTAIN MATERIAL BY THE NAVY

A letter from the Director, Office of Legislative Affairs of the Department of the Navy notifying, pursuant to law, of the intention of the Navy to donate certain material to the Newport Restoration Foundation, New port, Rhode Island; to the Committee on Armed Services.

PROPOSED CONSTRUCTION PROJECT OF THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense notifying, pursuant to law, of a proposed construction project to be undertaken by the Army National Guard; to the Committee on Armed Services.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, the annual report of the Interim Compliance Panel for the calendar year 1975 and through March 1976 (with an accompanying report); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare transmitting a draft of proposed legislation relating to the influenza immunization program (with accompanling papers); to the Committee on Labor and Public Welfare.

REPORTS OF THE FEDERAL AVIATION ADMINISTRATION

A letter from the Associate Administrator of the Federal Aviation Administration transmitting, pursuant to law, 12 reports covering four new and eight existing systems of records (with accompanying reports); to the Committee on Government Operations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

A resolution adopted by the Penfield (New York) Town Board relating to planning assistance; to the Committee on Appropriations.

A resolution adopted by the Mid-County Republican Club, Columbiana County, Lisbon, Ohio, relating to conduct of Members

of Congress; to the Select Committee on Standards and Conduct.

Resolution No. 189–1976 adopted by the Legislature of the Northern Mariana Islands; to the Committee on Interior and Insular Affairs:

"RESOLUTION No. 189–1976

"A resolution relative to bestowing the title of Honorary Citizen of the Northern Mariana Islands upon the Honorable Franklin Haydn Williams, the President's personal representative for status negotiations for Micronesia and the Northern Mariana Islands

"Whereas, the Honorable Franklin Haydn Williams, the President's Personal Representative for Status Negotiations for Micronesia and the Northern Mariana Islands, worked with representatives of the people of the Northern Mariana Islands on their future political status since 1972; and

"Whereas, his untiring efforts and his firm belief in the self determination of the people of the Northern Mariana Islands, led to the signing of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America on February 15, 1975; and

"Whereas, after the President of the United States transmitted this Covenant to the United States Congress, Ambassador Williams continued to work with the members of the United States House of Representatives and the United States Senate to obtain favorable consideration of those bodies to the Covenant, which was finally achieved on March 11, 1976; and

"Whereas, the successful efforts of Ambassador Franklin Haydn Williams in negotiating and working for the approval of the Covenant, cleared the way for the people to realize their political ambitions that had been expressed for the past quarter of a century; and

"Whereas, without the efforts of Ambassador Franklin Haydn Williams, the Marianas would not have become a part of the American political family for many more years to come, if at all; and

"Whereas, we, the elected leaders of the people of the Northern Mariana Islands are eternally grateful to Ambassador Franklin Haydn Williams for his efforts, assistance and friendship towards the people in the Northern Mariana Islands; and

"Whereas, in recognition of his assistance, it is the sense of the members of the Northern Mariana Islands Legislature that special recognition and due respect be given to those distinguished Americans who have unselfishly supported our political status and desires in consonance with the principles of American democracy;

"Now, therefore, be it resolved by the Fourth Northern Mariana Islands Legislature, Eighth Regular Session, that the title of Honorary Citizen of the Northern Mariana Islands be and hereby is conferred upon the Honorable Franklin Haydn Williams, the President's Personal Representative to Micronesia and Northern Mariana Islands Status Negotiations; and

"Be it further resolved that the President certify to and the Legislative Secretary attest the adoption hereof and thereafter transmit copies of the same to Ambassador Franklin Haydn Williams, President Gerald R. Ford, Secretary of the United States Department of State, the Speaker of the United States House of Representatives and President Pro Tempore of the United States Senate."

A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Labor and Public Welfare:

"A CONCURRENT RESOLUTION

"To memorialize the Congress of the United States to support prompt enactment of Senate bill S. 50 and House bill H.R. 50 now pending in the United States Congress, relating to Federal programs for full employment

"Whereas, unemployment throughout the nation is presently our most serious economic problem; and

"Whereas, the persons least able to bear the financial burdens of an economic recession are those most seriously affected by unemployment; and

"Whereas, it is essential that the vast resources of the federal government be utilized to attack the unemployment problem promptly and effectively, and the passage of full employment legislation would help to substantially alleviate the unemployment problem.

"Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

"That the General Assembly by this resolution respectfully urges the Congress of the United States to act promptly to effect the passage of Senate Bill, S. 50 by Senator Humphrey and House Bill H.R. 50 by Congressman Hawkins, both relating to full employment for the people of this nation.

"Be it further resolved that copies of this resolution be forwarded to the Vice President of the United States, the Speaker of the House of Representatives, and each member of the South Carolina Congressional Delegation in Washington, D.C."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRAVEL, from the Committee on Public Works:

S. Res. 471. An original resolution waiving section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 with respect to the consideration of the River Basin Monetary Authorization Act of 1976. Referred to the Committee on the Budget.

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

S. 2322. A bill for the relief of Lee Mee Sun (Rept. No. 94–956).

S. 2618. A bill for the relief of Chea Hyo Suk (Rept. No. 94–957).

S. 2770. A bill for the relief of Anthony Augustus Daley and Beverly Evelyn Daley (Rept. No. 94–959).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 1477. A bill for the relief of Beatrice Serrano Toledo (Rept. No. 94–955).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments, and an amendment to the title:

S. 2668. A bill for the relief of Arturo Morena Hernandez (Rept. No. 94–958).

By Mr. STENNIS, from the Committee on Appropriations, with amendments:

H.R. 14236. An act making appropriations for public works for water and power development and energy research, including the Corps and Engineers—Civil, the Bureau of Reclamation power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes (Rept. No. 94–960).

REPORT OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE—(S. REPT. NO. 94–961)

Mr. WILLIAMS submitted a report of the Committee on Labor and Public Welfare, pursuant to section 302(b) of the Congressional Budget Act of 1974, which was ordered to be printed.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

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

Executive F, 94th Congress, 2d session. Treaty with the Swiss Confederation on Mutual Assistance in Criminal Matters signed at Bern on May 25, 1973, six exchanges of interpretative letters of the same date, and an exchange of interpretative letters dated December 23, 1975 (Exec. Rept. No. 94–29).

By Mr. DURKIN, from the Committee on Commerce:

John Holliday Holloman III, of Mississippi, to be a member of the Federal Power Commission.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred to the Committee on Appropriations:

H.R. 14235. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1977, and for other purposes; and

H.R. 14237. An act making appropriations for agriculture and related agencies programs for the fiscal year ending September 30, 1977, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, June 17, 1976, he presented to the President of the United States the following enrolled bills:

S. 18. An act to amend the Act of August 31, 1922 to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes.

S. 3161. An act to authorize certain flagpoles to be located on the Capitol Grounds, and to improve the flow of traffic to and from the United States Capitol Grounds and the National Visitor Center.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BARTLETT:

S. 3580. A bill to establish a program of management and policy study commissions

of the Government of the United States of America and for other purposes. Referred to the Committee on Government Operations.

By Mr. TAFT:

S. 3581. A bill to establish an Office of Maritime Affairs Coordinator in the Executive Office of the President. Referred to the Committee on Commerce.

S. 3582. A bill to amend section 1631(a) of the Social Security Act. Referred to the Committee on Finance.

By Mr. BEALL:

S. 3583. A bill to authorize the Secretaries of the military departments to waive for a period of one year, in the case of female applicants and nominees to the service academies under the respective jurisdictions of such secretaries, the maximum age limitation for admission to such academies. Referred to the Committee on Armed Services.

By Mr. PROXMIRE (for himself and Mr. GRIFFIN):

S. 3584. A bill to extend and increase the authorization for the program to extend the winter navigation season for the Great Lakes-Saint Lawrence Seaway System. Referred to the Committee on Public Works.

By Mr. McGOVERN (for himself, Mr. PERCY, Mr. KENNEDY, and Mr. DOLE):

S. 3585. A bill to amend the Older Americans Act of 1965 to provide a national Meals-on-Wheels Program for the elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. TOWER (by request):

S. 3586. A bill to institute certain due process requirements with respect to the supervisory authority of the Federal banking agencies. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUGH SCOTT:

S. 3587. A bill to amend title XVI of the Social Security Act to provide that, in the case of an individual residing in a retirement home or similar institution, certain payments made to such home or institution by relatives of such individual shall not be regarded, for purposes of such title, as income of such individual. Referred to the Committee on Finance.

By Mr. GARY HART:

S. 3588. A bill to provide a pilot program for review of certain existing tax expenditures, and to provide for systematic review of new tax expenditures and existing tax expenditures which are continued. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARTLETT:

S. 3580. A bill to establish a program of management and policy study commissions of the Government of the United States of America and for other purposes. Referred to the Committee on Government Operations.

(The remarks of Mr. BARTLETT on the introduction of the above bill are printed earlier in today's RECORD.)

By Mr. TAFT:

S. 3581. A bill to establish an Office of Maritime Affairs Coordinator in the Executive Office of the President. Referred to the Committee on Commerce.

Mr. TAFT. Mr. President, I am today introducing in the Senate a bill to establish a National Maritime Affairs Coordinator, as recommended by the recent report of the Transportation Institute. I believe it is vital that, in the face of the growing Soviet threat at sea, we take better advantage of all of our national maritime resources.

The National Maritime Affairs Coordinator would be responsible for insuring that all of our maritime resources are used in a coordinated fashion to further our national security. In particular, he would improve our use of our merchant marine to support our military services and other aspects of national policy. Our merchant marine should be one of our greatest national assets. Throughout history, a strong merchant marine has been indispensable to sea power; and seapower is the basis of America's national existence. We need to devote more attention to our merchant marine, and to take better advantage of the many capabilities it possesses.

There is a great need for better coordination of all of our maritime policies. Better coordination not only can improve our national security, but it can also save the taxpayers' dollars. Coordination is not expensive itself, but it ensures that the tax dollars committed to our many maritime programs and agencies will not be used in duplicate programs. We must have the most efficient administration of our maritime programs that we can devise, and a national maritime affairs coordinator would greatly improve efficiency in this regard.

As I said in my "white paper on defense," the Soviet Union is now ahead of the United States in integration of maritime resources. We must move decisively to close this gap. My white paper specifically recommends that Navy requirements for cargo ships, oilers, and even ammunition ships must be considered in the context of employing American-flag merchant ships. Not only would this enable the merchant marine to provide a needed service, but it would free Navy shipbuilding funds which could be used to construct more warships.

A National Maritime Resources Coordinator will greatly assist in better using all aspects of our maritime resources to help us face the Soviet naval challenge. That challenge is too serious for us to neglect any tools we may have in meeting it.

Mr. President, the overview section of the report, "An Analysis of the Direct Impact of the Merchant Marine on National Security," prepared for the Transportation Institute, describes well the need for better coordination of all our maritime resources, and the benefits that are to be gained by such coordination:

The analysis also discusses the specific need for a maritime coordinator, and I ask unanimous consent that it be printed in the RECORD.

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

AN ANALYSIS OF THE DIRECT IMPACT OF THE MERCHANT MARINE ON NATIONAL SECURITY OVERVIEW

INTRODUCTION

In a recent article in Fortune magazine former Secretary of Defense Schlesinger referred to the present as a "testing time for America." Citing US sea power as the most prominent example, Secretary Schlesinger warned of the hazards to the free world resulting from the demonstrable diminution of American power.

Undoubtedly, this is a testing time not only for American power and will, but also for American ingenuity and creativity in solving difficult problems. Among the most difficult of these problems is the decline of American sea power. The phenomenon of block-obsolescence and the declining number of US Navy and merchant ships is well documented and widely acknowledged. However, the budgetary constraints, coupled with inflation, assure that the naval fleet will continue to decline in numbers. This condition coincides with a period in history when, more than at any other time in our 200 years, use of the sea is essential to the nation for political, economic and military reasons. At the same time, the tremendous growth of the Soviet naval, merchant, research and fishing fleets; the self-reliance lesson of the Yom Kippur War when our allies' airfields, bases and fleets were unavailable; the demise of American influence in Southeast Asia; the tenuous relationship with traditional allies (and our bases in) Portugal, Spain, Italy, Greece and Turkey; and events in Angola all make clear our need for remaining a first class sea power. Clearly, in this context, national security requires new approaches to sea power, approaches that will stretch dollars to provide maximum benefits.

This study examines the US Merchant Marine as one element of sea power. A series of nine issue papers (each supported by more extensive back-up documentation) proposes improvements in US maritime utilization, organization and policy that could enhance our overall sea power and, hence, national security.

The focus of this analysis is on the national security impact of the US Merchant Marine. It should be recognized that "maritime affairs" constitutes a large and complex sea power "system," composed of many elements such as the naval, merchant, ocean research and fishing fleets, the shipbuilding industry, shipping companies, maritime labor, certain Federal departments and agencies, maritime training institutions, and research and development activities. These elements are all interrelated with varying degrees of dependency. Improvement of one element tends to improve other elements and the total improvement can be demonstrated to be a net gain for the Nation as a whole. For example, if the Navy were to start a program of using commercial tug service in one major port on the east and west coast, the added demand for commercial tug services would likely result in shipyard orders for new construction. This would, therefore, benefit the shipbuilding industrial base. The Navy would benefit due to lower charter costs compared to having to continuously operate, man, support and replace their own tug fleet and would, with appropriate authority, be permitted to use the recaptured funds toward procurement of combatant ships, thus further enhancing the industrial base and naval capabilities.

The analysis uncovered a large number of incremental benefits which made the original goal achievement even more attractive. For example, the use of merchant ships for underway refueling of Navy ships could provide direct dollar savings and even increase fleet flexibility. The benefits which would accrue in addition to the primary one of providing comparable services at less cost, would be in developing a broad base of merchant seamen trained to operate with the US Navy. Employment prospects for merchant seamen would be increased and it would also increase US tax revenues. From a military viewpoint it would provide the framework for a worldwide underway refueling capability for the Navy, i.e., any place a US-Flag merchant tanker might be sailing. A recent problem encountered by the

Navy in acquiring fuel in the Indian Ocean is a specific example of a situation where a trained crew and properly equipped US-Flag merchant ships would have handily solved the Navy logistics problem.

This analysis included the relationships of the U.S. Navy, U.S.-Flag Merchant Marine and national security objectives, and indicated a number of ways in which a modern, high-technology merchant fleet can (1) undertake specific naval tasks in peacetime, (2) be prepared to move rapidly from peacetime to wartime operations (and thus increase the deterrent effect of conventional forces), and (3) improve the Navy's war fighting capabilities.

U.S. MERCHANT FLEET TODAY

Throughout history great powers have maintained merchant fleets as instruments of military economic and political policy. In the U.S. the role of the Merchant Marine as a naval auxiliary and instrument of economic policy is established in various statutes and is most concisely set forth in the Merchant Marine Act of 1936 (46 U.S.C. 1101). Most recently, in 1970 the President and Congress set forth a national program to rebuild and revitalize the Merchant Marine, including a provision for a 10-year ship construction program. That program is falling considerably short of its objectives and a substantial portion of the funds requested and appropriated for fleet construction and support (in recent years, about $0.5 billion annually) remains unspent. Nonetheless, today, mid-way through the 10-year program, the active privately owner merchant fleet stands at a level of just over 500 ships. Many of these are among the most modern and efficient ships in the world. This fleet is intended to serve as an auxiliary to the regular Navy fleet of about 480 active ships as the principal components of U.S. sea power.

The inquiry in this study is whether changes in existing U.S. maritime organization and policy can result in (1) enhanced national security, or (2) the present level of national security at less cost, or (3) in the best case, enhanced national security at less cost.

SUMMARY OF ISSUE PAPERS*

1. Performing Peacetime Navy Auxiliary Functions with the Merchant Marine.

Enhanced sea power and reduced cost could result from greater use of U.S. merchant ships to perform auxiliary functions currently performed by Navy ships, i.e., fuel and logistic supply, cargo transport, missile range and space support, research, surveying and tug services. This would result in: (a) cost savings as a result of greater ship use and reduced personnel costs; (b) an increase in the skilled personnel base available for future mobilization; (c) increased national security by applying cost savings from auxiliary or support functions to enhance combat capability and warship construction.

2. Employing Container Concepts for Specialized Military Support in Peace and in War.

Development and use of specialized military support containers, based on the standard-dimension cargo container carried on merchant ships, could enhance national security and reduce costs. Containers housing specialized communications, electronic, intelligence, laboratory, research, surveying and evaluation equipment would add new dimensions of flexibility and versatility to overall U.S. sea power assets. Such containers could enhance the ability of merchant ships to perform cost-effective support for the Navy in peacetime as well as substantially enhance sea power readiness for war or national emergency.

*Numbers indicate attached Issue Papers.

3. Modifying Merchant Ships for Military Sealift During Wartime.

Improved planning and some revised construction features could greatly enhance the military sealift capability of the U.S. merchant fleet, by making them more readily usable to carry military vehicles and equipment during periods of crisis or war.

4. Converting Merchant Ships for Combat Roles.

In previous wars large number of merchant ships have been converted to combat ships. Improved planning and incorporation of specific design features in merchant ships at the time of construction could result in greatly reduced time and cost to convert merchant ships to combat roles such as helicopter/VSTOL carriers and amphibious assault ships. The results could be an increased naval force potential at reduced cost.

5. Employing Merchant Ships to Enhance American Political Presence.

US merchant ships can be more effectively employed to enhance American political and economic influence around the globe, particularly in Third World countries, through increased trade.

6. Developing an Organization for a Strengthened US Maritime Policy.

Government programs and functions relating to the Merchant Marine are at present scattered among various agencies and departments, and are largely uncoordinated. More effective government coordination and management could be accomplished by establishing at the Presidential Assistant level a Maritime Affairs Coordinator who would sit on the National Security Council.

7. Coordinating National Maritime Research Activities.

Greater coordination is required in maritime research and development activities.

8. Comparing National Policies Affecting Sea and Air Transportation and Their Impact on National Defense.

A comparison of national policies affecting sea and air transportation and their impact on national defense should be made.

9. Maintaining a Shipbuilding/Industrial Base Adequate for National Defense.

A coordinated program of naval and merchant ship construction is needed to enhance and maintain the shipbuilding/industrial base and to improve shipyard efficiency and reduce costs.

CONCLUSIONS

The question can be asked: How can the US Navy and US-flag Merchant Marine working together in peacetime provide a higher degree of national security than we presently experience?

In wartime there is no questiocn that the Merchant Marine must operate with the Navy for protection and must provide the sealift required to support and project military forces overseas. Characteristically, most Merchant Marine losses occur early in the conflict, in part the result of the difficulty in making the transition from civilian peacetime control to wartime naval control. The problems and losses associated with transition from peacetime to wartime would be alleviated if the Merchant Marine and Navy operated together during peacetime. The question thus remains, how are peacetime operations to be conducted and what additional benefits might be expected from joint Merchant/Navy operations?

For commercial type services, i.e., tugs, towing, supply, refueling, sealift, etc., the Merchant Marine would perform what it is ideally suited for—commercial type operations. Higher utilization of assets and savings in Navy personnel costs are key factors in reducing overall Navy expenditures.

The issue of maritime strikes is frequently raised when discussing Navy use of Merchant Marine services; however, the record of maritime unions in regard to Defense cargoes is exemplary and there is no record of a US military cargo not being handled due to maritime strikes. Maritime labor leaders have given assurance that "no-strike" clauses would be honored; maritime union discipline would not tolerate illegal strikes, such as those which have occurred in civilian sectors.

Therefore, we have concluded that there is a large and valuable defense reserve potential in a properly coordinated program of Navy-Merchant Marine peacetime operations. Moreover, the use of commercial sources for commercial type services will ultimately result in substantial net savings to the Navy and the taxpayer.

The changing nature of Soviet naval-maritime activities occurring at a time when US dependence on the sea is increasing should be of major concern to American leaders. In this context, the direct or impacts of the US Merchant Marine on national security are of vital importance to the Nation. The attached Issue Papers, taken together, provide a realistic and coherent program to increase the direct impact of the US Merchant Marine on national security.

ISSUE PAPER NO. 6—DEVELOPING AN ORGANIZATION FOR A STRENGTHENED US MARITIME POLICY

Situation and recommendations

The United States has traditionally conducted its peacetime foreign policy through diplomatic means and has attempted to achieve national security by purely military means. Separate and apart, other governmental activities are normally geared toward international economic achievements. However, there is no organizational mechanism through which maritime related efforts to accomplish national political, economic, and military goals are coordinated.

This is in stark contrast to our principal opponent, the Soviet Union, which has a highly integrated maritime posture. The Soviet Merchant Marine, for example, is openly employed to further national political as well as economic goals while providing direct support for Soviet military activities. These efforts are well documented, and the impact of the Soviet merchant, fishing and research fleets has been strongly felt in the political-economic arenas of Asia and Africa, especially along the periphery of the Indian Ocean.

As US naval forces are reduced to their lowest ship levels in more than 35 years, it has become increasingly necessary for the United States to consider methods of ensuring that all national maritime resources are fully and efficiently utilized. For example, using merchant ships to conduct port visits to show the flag in areas where heretofore a warship provided political presence, or using merchant ships to provide underway replenishment (UNREP) and other services to the Navy which heretofore were undertaken by Navy ships are practical cost-effective alternative courses of action.

At various times in American history from the Revolutionary War onward there were examples of integrated naval-maritime efforts. However, the National Security Act of 1947 (as amended) removed the Secretary of the Navy from the cabinet level. This ended the close association of the Navy with other American maritime interests, as the Navy was subordinated within the Department of Defense, essentially a war-fighting organization, and the Secretary of the Navy lost his authority to direct meaningful liaison with such agencies as the State Department, Commerce Department, and Coast Guard without bureaucratic interference. Since the 1947 defense reorganization there has been no senior individual in the Executive Branch to insure the coordination of the Navy and the Merchant Marine as provided in the Merchant Marine Act of 1936.

Similarly, there is no single Congressional committee that can coordinate naval and Merchant Marine interests. The Senate and

House of Representatives have separate committees on Armed Services which oversee the Navy, while the Senate Committee on Commerce oversees the Merchant Marine and the House has a Committee on Merchant Marine and Fisheries to oversee Merchant Marine activities.

Accordingly, an examination should be conducted of methods to establish an office of Maritime Affairs Coordinator at the White House Assistant level. The goals of this office would be to:

Develop the US Merchant Marine to compete in world commerce, to support national interests, and to serve as naval and military auxiliary in time of war or national emergency.

Introduce maritime alternatives in all applicable policy discussions concerning national interest and national security.

Produce national economic gains by optimum use of maritime transportation in foreign and domestic commerce.

The Maritime Affairs Coordinator would have responsibilities of: (1) establishing and developing specific legislation for a National Maritime Strategy; (2) coordinating US maritime research programs; (3) designing and coordinating an overall naval-merchant shipbuilding program; and (4) ensuring adherence to the provisions of the various existing laws relating to domestic and foreign trade, and to increasing the Merchant Marine's support of national defense objectives. The Martime Affairs Coordinator would provide a forum for the exchange of ideas and the coordination of resources and efforts to insure the maximum return for American investment in maritime-related resources. For example, the coordination of commercial and naval shipbuilding efforts could provide for more efficient utilization of available shipbuilding facilities, could help alleviate current personnel recruiting and training problems in the shipyards, and would ensure that shipyard employment opportunities received wide dissemination.

The Maritime Affairs Coordinator would have authority to work directly with the following agencies to ensure inter-departmental coordination of national naval-maritime interests: (1) Navy, (2) Coast Guard, (3) Maritime Administration, and (4) NOAA. Additionally, he would conduct continuous liaison with other government agencies, as appropriate (e.g., State Department, Office of the Secretary of Defense, Office of Management and Budget), and the relevant Congressional committees. The Maritime Affairs Coordinator would be a member of the National Security Council. The attached fold-out chart displays a suggested organizational structure for the Office of Maritime Affairs Coordinator.

Benefits and risks

A number of political, economic and military benefits can be easily identified with the establishment of an Office of Maritime Affairs Coordinator at the White House Assistant level. In particular would be the direct benefits to national security by White House level coordination and sponsorship of the various programs described in accompanying issue papers.

The Maritime Affairs Coordinator would also ensure that transportation alternatives which involve the use of domestic waterways and coastal waters were fully considered in national transportation planning deliberations. The increased use of waterborne commerce with its inherent energy efficient, low cost features would provide direct economic benefits to the consumer. The general public would gain due to the characteristically reduced noise and air pollution levels associated with waterborne transportation.

No risks have been identified with this issue.

Summary

The establishment of an Office of Maritime Affairs Coordinator would ensure coordination and, hence, maximum effectiveness of US naval and maritime assets. This would be especially valuable in a period when US and world use of the sea is increasing, and US naval-maritime assets are being severely curtailed.

Need

Establish an Office of Maritime Affairs Coordinator at the White House Assistant level, with the Coordinator being appointed by the President with the advice and consent of the Senate. The Coordinator would be empowered to coordinate plans and policies with the nation's various maritime and naval interests, maintain direct liaison with appropriate Congressional committees, and sit in the National Security Council.

Mr. TAFT. Mr. President, I hope my colleagues will join with me in establishing an Office of Maritime Affairs Coordinator. I believe such an office could greatly further our national security, and at the same time better provide for efficient use of the taxpayers' dollars.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 3581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE

SECTION 1. The purpose of this Act is to establish an Office of Maritime Affairs Coordinator in the Executive Office of the President in order to—

(1) promote the development of the United States Merchant Marine to compete in world commerce, to support national interests, and to serve as a naval and military auxiliary in time of war or national emergency;

(2) introduce maritime alternatives in all applicable policy discussions concerning national interest and national security; and

(3) produce national economic gains by optimum use of maritime transportation in foreign and domestic commerce.

ESTABLISHMENT OF OFFICE

SEC. 2. (a) There is established in the Executive Office of the President an Office of Maritime Affairs Coordinator.

(b) Such Office shall be headed by a Maritime Affairs Coordinator (hereinafter referred to as the "Coordinator") who shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(62) Maritime Affairs Coordinator."

FUNCTIONS

SEC. 3. (a) The Coordinator shall—

(1) develop and recommend to the President and the Congress a National Maritime Strategy Program, including, a civil-military shipbuilding program, and necessary legislation to effectuate such program;

(2) coordinate all Federal civil and military maritime research programs;

(3) coordinate all other Federal maritime activities and make appropriate recommendations to insure adherence to the provisions of existing law relating to domestic and foreign trade; and

(4) represent maritime interests in national transportation planning.

(b) The Coordinator shall serve as a member of the National Security Council.

STAFF

SEC. 4. The Coordinator may appoint and fix the compensation of such officers and employees as may be necessary to assist him in the execution of his duties under this Act.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. TAFT:

S. 3582. A bill to amend section 1631(g) of the Social Security Act. Referred to the Committee on Finance.

Mr. TAFT. Mr. President, today I am introducting a bill to extend for 2 years the interim assistance provisions of the supplemental security income program for the aged, blind and disabled—SSI. These provisions, which authorize important assistance for thousands of our poorest aged, blind, and disabled citizens, will expire on June 30, unless Congress acts.

The SSI program's interim assistance provisions offer a negligible-cost means of assuring that applicants receive the financial help they need while the Social Security Administration is processing their applications. Without the program, the Social Security Administration would reimburse successful applicants retroactively for the payments due during these periods. But this would be little consolation during the several months recipients sometimes must wait for eligibility determinations. Food bills, medical bills and other necessary expenses do not wait for the Social Security Administration to make its decisions.

Theoretically, State and local public assistance programs could supply the necessary interim relief. However, many States and localities were reluctant to do so prior to the enactment of the Federal interim assistance provisions. Their concern was that they were not assured of reimbursement by the SSI recipient once the retroactive payment of SSI benefits was made. Thus, many of those in need did not receive help, while some received double payments.

To remedy this situation, in 1974 I proposed and the Congress enacted the present interim assistance provisions. These provisions allow the Social Security Administration to reimburse State and local government agencies directly, from the recipients' retroactive SSI amounts, for any interim assistance supplied to these recipients. The recipient has to consent to this procedure at the time the interim aid is extended and is assured of receiving any retroactive SSI payment still owed to him within 10 working days of its receipt by a State or local agency.

Thus, this program leaves the decision whether to extend interim aid and in what amount to the State and local public assistance systems, but it encourages the extension of aid by providing reimbursement when the SSI payments are made. Twenty-three States, including Ohio, and the District of Columbia have chosen to participate in this program. Six hundred and eighty-two local agencies, including Ohio's 88 county public assistance systems, are being reimbursed directly. Three more States are consider-

ing participation. Through January 1976, net disbursements to participating agencies totaled $11.6 million and over 50,000 SSI applications had been involved.

Fortunately, the Social Security Administration has cut somewhat its delays in processing SSI applications. At the time the interim assistance provisions were enacted, only about half of the aged SSI claims were processed in less than 60 days and half of the blind and disabled claims in less than 90 days. By August 1975, about half of the aged claims were processed in less than 30 days and half of the blind and disabled claims were processed in less than 60 days. This speed-up means that other provisions of the SSI law allowing one-time $100 emergency advances to presumptively eligible aged citizens and SSI payments for 3 months to presumptively eligible disabled citizens, can serve adequately an increased proportion of SSI applicants.

However, there still will be thousands of these citizens who will have to rely on the interim assistance program to avoid temporary financial hardships. Furthermore, a recent HEW report to Congress on the program indicated that program's administrative costs, which constitute the only costs of continuing the program, are very low. Thus, the report concluded that "as long as the program continues to help even a small number of people, it is worth extending," and called for making the program permanent. The report also indicated that all participating States would recommend the program's extension, as opposed to expiration.

The interim assistance provisions clearly are no substitute for further improvements in the Social Security Administration's SSI determinations process. Furthermore, I realize that some would prefer to see the Federal Government take more direct responsibility for interim assistance, and I have proposed legislation (S. 1514) which would move in this direction in some respects. But the present program is working and should be retained. At least until Congress agrees upon a better approach. I am proposing a 2-year extension, rather than a permanent program, to help assure that the program receives continued congressional scrutiny.

The only substantive change in the program which I am proposing would allow State and local agencies a maximum of 15 working days, rather than the present 10, to pay SSI recipients any retroactive amount still owed them after the interim aid reimbursement has been deducted. I originally proposed the present limit to assure that recipients receive this money reasonably promptly. However, although the average times nationwide are within the 10-day limit, a significant number of State and local agencies may be discouraged from participating in the program by it. The result is less interim aid extended and greater possibilities of double payments to recipients.

The additional 5 working days I am suggesting could draw more agencies into the program without adversely affecting recipients to any great extent. They would be receiving SSI checks for the current month in any event, and the law still would direct remaining retroactive SSI payments to be made "as expeditiously as possible."

I ask unanimous consent that the bill and a copy of HEW's report to Congress on interim assistance reimbursement without exhibits be printed in the RECORD.

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

S. 3582

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (A) Section 1631(g)(4)(A) of the Social Security Act is amended by striking out "ten" and inserting in lieu thereof "fifteen". (B) Section 1631(g)(6) of such Act is amended by striking out "June 30, 1976" and inserting in lieu thereof "June 30, 1978"."

REPORT TO THE CONGRESS ON INTERIM ASSISTANCE REIMBURSEMENT, 1976

I. REASON FOR REPORT

Section 5 of Public Law 93-368 (H.R. 8217), signed by the President on August 7, 1974, amends section 1631 of the Social Security Act to provide for Federal reimbursement to States for interim assistance paid by the States to individuals awaiting benefit payments from the supplemental security income program. (See Exhibit A—Public Law 93-368.)

Subsection (g) of the amendment states: "The provisions of this subsection shall expire on June 30, 1976. At least 60 days prior to such expiration date, the Secretary shall submit to Congress a report assessing the effects of actions taken pursuant to this subsection, including the adequacy of interim assistance provided and the efficiency and effectiveness of the administration of such provisions. Such report may include such recommendations as the Secretary deems appropriate."

The following is submitted pursuant to the reporting requirement of the above mentioned subsection of Public Law 93-368.

II. SUMMARY AND RECOMMENDATIONS

The Interim Assistance Reimbursement program, established by Public Law 93-368, has been implemented, in general, smoothly in the 24 participating States. It is now operating effectively to reimburse those States or their local welfare agencies for interim assistance they provide to applicants (who are subsequently determined to be eligible) for Supplemental Security Income (SSI) payments while the applicants' claims are pending.

Most of the participating States are reasonably satisfied with the program because it provides them with reimbursement funds they otherwise would not have been able to recoup or might have recouped only at a high expense. Administrative costs of the program are relatively low.

The program has not been without problems, but most were administrative and were solved in the early stages of operation. Some problems with automated notice generation and systems still exist, but they affect only a small number of the cases. These cases are currently being addressed by the Social Security Administration (SSA). The final tasks for full implementation—an internal accounting system and State reporting requirements—are now being completed.

Because of the program's overall effectiveness and its benefits to the States and, in turn, to those individuals in need, the Department of Health, Education, and Welfare recommends that the Interim Assistance Reimbursement program be extended indefinitely after the current expiration date of June 30, 1976.

III. PROGRAM BACKGROUND

The SSI program was established by Public Law 92-603, a part of the President's proposed 1971 welfare reform legislation. The legislation, approved in October 1972, replaced the former State administered cash assistance programs for the low income aged, blind, and disabled persons with the SSI program.

The law and subsequent amendments established uniform Federal base cash payments to eligible persons. It allows States the option of providing additional supplementation to recipients. It also requires States to provide a cash supplement to the basic Federal payment for any difference between the new payment amount and the amount the individual received just prior to the implementation of SSI (December 1973) if there is no change in the beneficiary's circumstances. States my elect to administer their own supplementation or have Federal administration. The payment of benefits under the SSI program commenced January 1974.

Early in 1974, many States indicated they were making payments of a general assistance nature to people who had applied for SSI but had not received their payments because of delays in the determination of their eligibility.

These payments, though essential to the welfare of the recipient, created some problems in the context of the SSI program. If the general assistance payments were treated as unearned income for the purposes of SSI, when the recipient's initial SSI payments would be reduced by that amount. Thus, the financial burden for a significant number of initial payments would shift from the Federal Government to State and local governments. This would be contrary to the purpose of the SSI legislation.

Alternatively, if the interim State payments were treated as loans, the States might expect to recover from the recipients only a small portion of the loaned funds. Although States desired Federal reimbursement for the interim payments, it appeared that there was no legal mechanism for doing so. Therefore, before SSA could reimburse the States, the statute would have to be amended.

By June 1974, SSA and the American Public Welfare Association (APWA), working together, had developed a legislative proposal providing that the States would be reimbursed for interim assistance payments from any retroactive SSI and/or State supplementary benefits.

Included in Public Law 93-368 (H.R. 8217) signed by the President on August 7, 1974, is a section (section 5) which amends the Social Security Act to allow the Secretary of Health, Education, and Welfare to enter into an agreement with a State for interim assistance reimbursement (IAR) to that State and/or any political subdivision specified in the agreement.

Although the law was enacted in August 1974, planning for its implementation began in May 1974 under the general direction of SSA's "Strike Force," established to coordinate SSI program activities.

On May 30, 1974, the APWA/SSA Liaison Subcommittee on Interim Payments met to discuss SSA/State agreements, implementation plans, and systems approached for IAR.

During June 1974, the States were queried about their use of interim assistance for individuals who apply for SSI for the purposes of developing policies and systems capabilities.

When the legislation was enacted in August 1974, SSA had developed, in draft, a model SSA/State agreement, a model State (or local agency)/recipient authorization

form, and language for the award or denial notices to be sent to the recipient and the welfare agency. The model SSA/State agreement was approved in final on September 9, 1974.

During August, States were asked about their interest in IAR. By September 13, 29 States indicated an interest in participating in IAR, 10 did not wish to participate, the remaining 12 (including the District of Columbia) had not yet indicated their positions.

In October 1974, six States—New Jersey, Colorado, Montana, Utah, Oregon, and Washington—executed the first IAR contracts. The IAR process became operative in November 1974, and the first checks were certified in December.

Proposed rules for "Interim Assistance Provisions; Agreements; Payments" were published in the *Federal Register* on November 12, 1975. (See Exhibit B—Notice of Proposed Rules.) At this writing, the rules had not yet been published in final.

IV. PROGRAM OPERATIONS

A. Current status

There are currently 23 States and the District of Columbia participating in the IAR program. The law, however, permits reimbursement to local agencies set forth in the agreement between SSA and a State. The Social Security Administration has determined that it can feasibly reimburse to the county or parish level. Therefore, there are a total of 682 agencies now being reimbursed through the IAR program. (See Exhibit C—List of Participating States.)

Three additional States have been considering participation in the program (Kentucky, Hawaii, Connecticut).

Through January 1976, net disbursements to the participating States total over $11.6 million. A total of over 50,000 SSI applications with IAR involvement have been input. About 24,000 of these were denied. Approximately 17,400 reimbursement checks have been issued. The remainder are pending determination of eligibility for SSI. (See Exhibit D—Interim Assistance Reimbursement Tables.)

B. Procedures

The general procedures for interim assistance remibursement to States by the SSI program are described below—from Federal/State agreement to final State disbursement of and accounting for IAR funds.

A State wishing to participate in the program must first execute, with SSA, a Federal/State agreement. (See Exhibit E—SSI State Manual, Model Agreement No. 6.) All 24 States now participating in the program have executed the model agreement.

In States where the payment of interim assistance is primarily a county or local function, the States may designate that reimbursement be made directly to county or regional agencies. Twelve of the participating States have designated reimbursement to such agencies. In all cases the States must supply SSA with the names and addresses of the agencies to be reimbursed.

The Social Security Administration's central office then programs its computer with this information and notifies the appropriate SSA regional office that it is prepared to start reimbursement.

The State or local welfare agency may then have the person potentially eligible for SSI sign an authorization form which allows SSA to send the recipient's first benefit check (including retroactive payments) to that agency. A model authorization form is included in the SSI State Manual Exhibit E. The agency forwards the authorization form to the appropriate SSA district office and makes interim assistance payments to the potential eligible. (See Exhibit F—State Manual Instructions.)

The Social Security Administration's district office, upon receiving the authorization form, determines if the individual has applied for SSI. If he has, an indication of the receipt of an IAR authorization, form is placed in the automated system. If the individual has not applied, the district office will follow up with that individual to determine if he or she wishes to file for SSI. If he or she does not wish to file, the authorization form is returned to the welfare agency with an indication that the individual declined to file.

If a general assistance recipient, or an individual who might be eligible for interim assistance, in a State having an IAR agreement applies for SSI, the district office will suggest that he or she visit the welfare agency office to sign an authorization. The district office will hold the SSI application briefly to await the authorization (no more than 10 days). (See Exhibit G—Claims Manual Instructions.)

When an individual is determined to be eligible for SSI, the amount he or she is due is calculated, in most cases, by an automated process, and a certification to issue a check is forwarded to the Treasury Department, which issues the first check to the welfare agency. In conjunction, the SSA system produces notices concerning the payment to be sent to the recipient and the welfare agency. Notices are also prepared when SSI eligibility is denied. (Exhibit G—Claims Manual Instructions gives an example of the award notice.)

After the check is received by the welfare agency, that agency has 10 working days to send the recipient any excess over the interim assistance it paid the recipient. The State, even where a local agency received reimbursement, is required to maintain an accounting of the interim assistance reimbursement. (Program Directions, section VI, discusses reporting requirements.)

V. PROGRAM EVALUATION

The consensus of State participants in IAR and a survey of SSA's district offices dealing with recipients in those States indicates that the program was implemented, in general, smoothly and is working efficiently and effectively. Most participating States and counties are satisfied with the IAR program.

Complaints from recipients to either the district offices or the welfare agencies are now minimal. Organizations representing the various categories of beneficiaries have been unusually silent on the IAR program. This fact, of course, cannot be considered a plaudit, but it must be construed as a positive indicator of effectiveness.

The primary reason States give for being satisfied with IAR is that they are now being reimbursed. Before the program, the chance of recovering interim assistance funds from the recipient, even when clearly designated as loans, was low; the costs of recovery were high. The IAR program has made reimbursement simple and essentially automatic. Some States have lauded the program because reimbursed funds go directly back to their general assistance account, and thus, more people may be served.

The IAR program, however, has not been without some issues and problems; most were in the early stages, but a few are continuing. Some common problems and their resolutions, where appropriate, are sketched below:

Administration

Most of the administrative problems occurred in the beginning of the program and, in many cases, resulted from misunderstandings of the program processes. Some States, for example, requested every welfare recipient to sign an IAR authorization form, whether or not the recipient would be considered potentially eligible for SSI. In some cases, even current SSI recipients signed authorizations. This led to an excessive workload in district offices to follow up on the leads. It often led to delays in returning improper authorization forms to welfare offices or delays in inputting IAR authorizations of potential eligibles into the system. These problems have been corrected at the State/local/district office level through normal communications. In some SSA district offices, an IAR coordinator has been designated to be a contact point for welfare agencies. This has substantially increased the efficiency of the follow up process and verification to the State of receipt of authorization forms by the district offices.

The timing of input of information was also an early problem. Often a district office received an application for SSI and suggested the applicant go to the welfare office for interim assistance. If the district office input the application immediately and an authorization form was not received within a few days, often the first payment would be certified to the recipient before the IAR information could be input. Thus, the State would not be reimbursed. In cases mentioned above where district office workload was increased by a large influx of authorizations, some IAR authorizations were not input timely with the same result—the State was not reimbursed. These problems now have been essentially eliminated. The processing is smoother and instructions to hold SSI application information for up to 10 days (if the applicant is eligible for interim assistance) until an authorization form is received are being followed. If the application has already gone to pay, a late authorization form is promptly returned to the welfare agency.

Some States believed that they were obligated by the law to pay interim assistance to everyone who applied for SSI and requested it. As a result, the States expected to pay out excessive sums. These States have been informed that the choice is theirs, and thus, this problem has been resolved. In the same vein, States have asked what, specifically, is meant by basic needs and for other guidelines on reimbursing the recipient extra funds. Since the authorization form is a contract between the State and the recipient, SSA has generally advised the States that it is their prerogative to decide these issues. The recipient may, of course, appeal to the State if he or she believes the State to be in error.

One final administrative problem occurred when an authorization was received in an SSA district office after the SSI application had been denied. Early in the program, the district office might not input the presence of an IAR authorization. Thus, if the applicant appealed the denial and it were reversed, the State would not be reimbursed. This has been corrected by instructions to input the IAR authorization in any such case.

Current procedures also require processing all claims to an ultimate decision, even when the applicant dies, thereby assuring the State reimbursement from any payments due prior to the death.

Notices

As mentioned above under section IV, Program Operations, when a determination of SSI eligibility or ineligibility is made for a person receiving interim assistance, notices are sent to both the recipient and the welfare agency. There has been some problems with their timeliness and content and also with the inability of the automated system to generate notices in certain cases discussed below. Most of these problems have been corrected. Those that remain are being addressed as a part of a total review of SSA's notice generation system.

The Social Security Administration certifies to the Treasury Department the payment of an IAR check to the welfare agency. The check may be issued in 2 or 3 days. Notices, however, are generated by SSA's automated system. It may take 4 or 5 days to print and mail SSI/IAR notices. Considering

mailing time and processing by the welfare agency, it can take up to 10 days after the agency receives the check for the notice to be associated with it. The law, however, requires that the agency disburse any excess amount over the interim assistance paid to the recipient within 10 working days of the receipt of the check. In the early stages of the program, many welfare agencies, particularly the larger State administered programs, were unable to meet the 10-day requirement consistently. Recently, SSA's processing times have improved—especially the mailing operations—and agencies are receiving the notices closer to the receipt of the check. State complaints in this area, while not eliminated, have been substantially reduced. Average times throughout State administered programs appear now to be under 10 days. In county administered programs, they are significantly lower. There are, however, no hard statistics available to support these perceptions. There have been almost no recipient complaints about the 10-day disbursement requirement. This is probably because SAA's notice to the recipient suggests a disbursement should be expected within about 2 weeks, and States are, for the most part, meeting this time frame.

The major problem of notice content was that originally the notices sent to the welfare agencies were duplicates of those sent to the recipients and did not bear the current address of the recipient. This added to the delay in disbursement of excess amounts to the recipient because the files—often in local welfare offices—had to be examined to obtain the address. The automated system has now been programmed to print the recipient's address on the bottom of the notice. This has substantially aided the States' disbursement processes.

In a few cases, proper notices are not issued, and welfare offices must turn to the district offices for disbursement information significantly delaying their processing. There are three situations which come from limitations in the automated notice process. The first occurs when the SSI applicant is determined to be retroactively but not currently eligible; i.e., he may now have a disqualifying income. The IAR check and a denial notice are sent to the welfare agency. The denial notice does not contain the information about the period of eligibility for which the payment is made. The welfare agency needs this information to determine any excess amount. The second situation occurs when the "initial payment" results from a reversal of a denial determination. The notice the recipient receives is manually processed in the district office. The welfare agency receives the check but, at present, no copy of the notice. The third situation is where there is no retroactive eligibility, but there is eligibility for the next month's payment. In this case the welfare agency is not entitled to reimbursement for previous months. They receive no check or notice, and thus, the recipient's interim assistance account remains pending.

In addition to the total review of the notice generation system, alternative processes are being considered for the last three situations and for providing the information timely to the States. These include some other form of transmission of the information; e.g., printouts or computer tape, copies of manually prepared notices, updates of lists of IAR authorization forms pending, etc.

Systems

There have been some systems related problems. One example was the notice generation problem previously mentioned.

In the two examples immediately below, the computer programs could be changed to accommodate the situations. The complexities and expense of these changes, however, were balanced against the expected low incidence of cases and acceptable alternatives.

The first occurs whenever the SSI payment must be made "manually." This means that the automated system is unable to compute and certify an SSI payment to an eligible person because of some problem (usually the absence of information) which does not affect the person's eligibility. In these instances—called "force payment" or "one-time payment"—the checks are certified outside of the normal SSA automated system, and thus, reimbursement will not usually be provided to the welfare agency. The agencies are usually informed of this situation as soon as the district office becomes aware of it. These cases are decreasing steadily. Also, where there is IAR involvement, one-time payments are rarely used since interim assistance is being provided.

In the SSI program, an individual applying because of disability may be paid Federal benefits (presumptive disability) for 3 months while a final determination is being made. The determination of disability takes significantly longer than other SSI factors because it requires medical opinion. The applicant, however, may be entitled to some benefits after applying but prior to the first presumptive disability payment. If the disability determination takes longer than 3 months, the SSI applicant may need some assistance until the next payments are made. The system is currently unable to make the first presumptive disability payment to the welfare agency for prior interim assistance, nor is it able to reinstitute IAR after the three monthly payments. While this and an associated notice complication are being reviewed by SSA, the problem has been alleviated by paying interim assistance for the whole determination period in lieu of the presumptive disability payments. Some States were at first concerned about their interim assistance cash flow, but there have been no recent complaints about the process.

Finally, in one State, there was a problem with the implementation date of its IAR program. SSA's central office was not supplied with the systems information it needed about the State IAR agency until 2 months after the expected effective date, and a number of IAR claims were not paid.

Adequacy

In addition to an assessment of the efficiency and effectiveness of the administration of the IAR program, Public Law 93-368 requires an assessment of ". . . the adequacy of interim assistance provided (by the welfare agencies). . . ."

Adequacy is difficult to assess. Aside from the relativity of the term, there are 24 primary jurisdictions providing interim assistance through their own unique programs. Some of these allow each county or municipality to establish its own method of determining need.

Most States use their "general assistance" criteria or pre-SSI program criteria for providing interim assistance to the needy aged, blind, and disabled. In some cases, this means developing a budget for the recipient's needs which could closely proximate the expected SSI payment. In other cases, it is flat grants from $60 per month up.

A survey through SSA's regional offices determined that, in any case, interim assistance appears to be tiding recipients over until SSI payments are made and that the payments are, in most cases, no more nor less than individuals not eligible for SSI would receive from the "general assistance" programs.

VI. PROGRAM DIRECTIONS

As noted in the preceding section, most of the administrative problems have been solved. The remaining notice problems are being addressed on a priority basis as a part of SSA's review of its notices system. The systems problems are being reduced by a reduction in the number of unique cases, by new program development, or by satisfactory alternatives to complex and time-consuming systems changes.

The one major remaining task for SSA is to implement an IAR financial accountability reporting system. A State is required to report to the Secretary of Health, Education, and Welfare the total interim assistance paid, the amount of initial payments received by the State, and the total apportionments thereof. A new reporting form has been developed, and instructions are being made final at this writing. Financial accountability information will be received by this system from the States by the summer of 1976.

The final question is whether or not the IAR program should be extended beyond the June 30, 1976, expiration date. It is clear, on the one hand, that better processing of SSI applications and systems improvements have reduced the need for interim assistance by the States.

In August of 1974, it was estimated that only half of the aged claims were processed in less than 60 days and half of the blind and disabled claims in less than 90 days. By August 1975, about half of the aged claims were processed in less than 30 days and half of the blind and disabled were processed in less than 60 days. Continued reduction in processing times is an SSA goal. The one-time payment in aged cases and the 3-month presumptive disability payments could replace interim assistance in many of these cases.

About half of the States are not participating in the program. In addition, a few States would rather that the Federal Government provide the interim assistance instead of the States. This would be contrary to the legislative intent to provide for reimbursement to the States only if the individuals are found eligible for SSI. If they are not SSI eligible, then the States would probably have to continue providing for the individuals anyway.

On the other hand, even those States which would like the Federal Government to pay the interim assistance consider IAR a very positive facet of the SSI program, and all States would recommend its extension as opposed to expiration. It returns funds to the States that they could not have hoped to recover, and it makes the States more able to help those who need interim aid. Another benefit is that, as mentioned previously, a signed authorization form can serve as a lead to a potential eligible for SSI, and it serves to protect the filing date of an SSI application. This date can serve as the date from which benefits will be paid.

Claims processing times have improved significantly. Until a satisfactory operating norm is reached, however, one-time and presumptive disability payments will not be adequate to meet the needs of some applicants.

Finally, the administrative costs of continuing the program are very low. Once the welfare agency information is entered into the computer, the cost to the Federal Government of paying the agency is the same as paying the recipient except for the minimal cost of handling the authorization form. The States do bear some administrative costs. But, although there is no information available on the actual State costs, these costs can be only a fraction of the benefits they receive. Thus, as long as the program continues to help even a small number of people, it is worth extending.

Therefore, on balance, the Department of Health, Education, and Welfare recommends the indefinite extension of the Interim Assistance Reimbursement program past the expiration date of June 30, 1976.

The Department has no other recommendations concerning this program.

By Mr. BEALL:

S. 3583. A bill to authorize the Secretaries of the military departments to

waive for a period of 1 year, in the case of female applicants and nominees to the service academies under the respective jurisdictions of such secretaries, the maximum age limitation for admission to such academies. Referred to the Committee on Armed Services.

Mr. BEALL. Mr. President, I introduce today a bill to allow the service academies to waive the age limitation for entrance to the academies for women during a period of 1 year.

Last fall, for the first time women were able to apply for admission to the service academies. Since the policy change allowing women's admission, I have had the pleasure of recommending a number of women for admission.

The latter part of last year I received a letter from a young lady expressing her disappointment that she was unable to enter the academy, because at the time of the policy change allowing female applicants, she was over the age limit. She felt this was unfair since she was denied under an earlier policy the opportunity to compete for appointment. This presented a difficult case. Any time society changes existing policy and lines are drawn in legislation, it is inevitable that individuals will fall on one side or the other, and this will make them either eligible or ineligible for a given program.

Nevertheless, I explored her problem with the Defense Department. After further study, I decided on the proposal which I am introducing today. Although not perfect, this bill provides my constituent and other young ladies similarly situated, with the opportunity to compete for admission, notwithstanding the fact that they are beyond the academies' age limitation. This proposal would permit, but not require, the academies at their option to waive the age limitation for women during a 1-year period.

Mr. President, there is nothing magical about the age 22, and I am sure the academies would concede it is somewhat an arbitrary limitation. Individuals develop mentally and physically at different rates. At the same chronological ages individuals may be in different physical or mental conditions. This proposal, then, would enable the academies to accept applications of women who have passed their 22d birthday, and if they decide that such individuals are qualified, they could admit such women.

Mr. President, I repeat that the service academies would not be required to admit such women; this authority is merely permissive. In summary, the bill would permit women who had passed the arbitrary age of 22 and who had been prevented in the past from seeking admission to the academies, to seek such admission for a 1-year period.

Mr. President, I ask unanimous consent that a letter which I received from Patricia Dickinson, whose plea prompted this measure, be printed in the RECORD, together with the text of the bill.

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

S. 3583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the Secretary of any military department is authorized, for a period of one year following the date of enactment of this Act, to waive, in the case of female applicants and nominees to the service academy under the jurisdiction of such Secretary, the maximum age limitation otherwise applicable for admission to such academy.

ROCKVILLE, MD.

Hon. J. GLENN BEALL, Jr.
U.S. Senator,
Baltimore, Md.

DEAR SENATOR BEALL, I am a graduate of Frostburg State College, currently teaching Health and Physical Education in Prince Georges County, Maryland. I am twenty four years of age and both of my parents are veterans of the U.S. Navy. Also, I am single. Needless to say, I have an interest in the U.S. Navy and would consider it a great honor to be able to attend the U.S. Naval Academy. I feel that my M.S. Degree from Frostburg State College and my three years of teaching experience would be a definite asset. In addition, I have completed thirty hours towards a Master's Degree at Towson State College with a 3.5 cumulative average. I desire to make application for the U.S. Naval Academy, however, since I will be twenty five years of age in April of 1976, I am presently disqualified from doing so. I think that this is unfair since women will be able to enter for the first time in 1976. Is there some way that you could introduce legislation which would waive the age requirement for the first class to enable women under thirty years of age to qualify? I would appreciate any action that you might take in my behalf and an early response to my request. I feel that my request is particularly appropriate in view that the 200th Anniversary of the Navy will be the first time that women will be sponsored for the U.S. Naval Academy.

Very respectfully,

PATRICIA A. DICKINSON.

By Mr. PROXMIRE (for himself and Mr. GRIFFIN):

S. 3584. A bill to extend and increase the authorization for the program to extend the winter navigation season for the Great Lakes-Saint Lawrence Seaway System. Referred to the Committee on Public Works.

Mr. PROXMIRE. Mr. President, because of the need to extend the study of year-round navigation on the Great Lakes and to demonstrate its feasibility, and because current authorization expires on December 31, 1976, I am today introducing a bill to remedy the situation.

The Senator from Michigan (Mr. GRIFFIN) is joining with me in sponsoring this bill.

Current studies of the extension of the navigation season on the lakes are still in the process of being reported to the Congress. Unfortunately, the May 15 deadline for the budget has passed and, as a result, we supporters of a longer navigation season for the Great Lakes were caught up in events.

The introduction of this bill, then, is meant to accomplish two goals: To extend the authorization of the program beyond its expiration date, and, to provide that the Soo locks can be kept open during this coming winter pending the submission of the study reports and the orderly consideration of the program by the Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820) is amended by striking out "December 31, 1976" and inserting in lieu thereof "June 30, 1979" and striking out "$9,500,000" and inserting in lieu thereof "$15,584,000"; This authority further provides that no less than $384,000 of this total amount to be allocated in fiscal year 1977 to extended operations of the Soo Locks and appurtenant facilities in the Saint Marys River, Michigan, until about January 31, 1977, dependent on weather. Consideration of mitigation measures is implicit in this continuation of demonstration authority.

By Mr. McGOVERN (for himself, Mr. PERCY, Mr. KENNEDY, and Mr. DOLE):

S. 3585. A bill to amend the Older Americans Act of 1965 to provide a national meals-on-wheels program for the elderly, and for other purposes. Referred to the Committee on Labor and Public Welfare.

NATIONAL MEALS-ON-WHEELS ACT OF 1976

Mr. McGOVERN. Mr. President, I am pleased to be introducing today the National Meals-on-Wheels Act of 1976.

My interest in the plight of the Nation's homebound elderly dates back to a hearing the Committee on Nutrition and Human Needs held in my home State of South Dakota on March 18, 1974. At that time the committee heard witnesses, many of them long-time friends of mine, describe the successes of the title VII congregate program. But they asked why something was not being done for those senior citizens who were physically unable to make it to the nutrition site. Today we can begin to answer that question by doing something for the homebound elderly—our most dependent citizens.

We have as a matter of national conscience and integrity pledged ourselves to the elimination of hunger in America. We should not take this commitment lightly, nor can we in good faith now abandon our goal, because the days of unlimited prosperity seem to have ended. The fullest measure of a society is not gained during times of great wealth; we reveal our true character only when commitment requires sacrifice.

When the Constitution declared it the responsibility of the Federal Government to provide for the general welfare, it did not add an exemption for those persons who are disadvantaged or poor; nor did it delegate this responsibility to the States. The Federal Government, having assumed major responsibility for the proper functioning of the economy, cannot then ignore the plight of those who do not enjoy the benefits of economic growth.

This responsibility and commitment are real and apply to all groups and to each individual.

In particular, we have a duty to pro-

vide for the welfare of our senior citizens who have over the course of their lives contributed so much to this country.

It is, therefore, disappointing that in our efforts to feed America's hungry, we have failed to reach the 3 to 4 million shut-in elderly, who, due to their physical limitations, are confined to their homes and remain largely outside the scope of current feeding programs. It is time to remedy this tragic situation.

A survey of title VII project directors under the Older Americans Act recently released by this committee highlighted the director's belief that a separate feeding program, operated through and in conjunction with title VII, is essential if we are to extend our agricultural bounties to the homebound elderly.

While persons of all ages share a common need for adequate nutrition, achieving a balanced diet is particularly difficult for the aged. As old age approaches, metabolic changes require a reduction in caloric intake while necessary levels for protein, vitamins, and minerals remain the same.

For the homebound elderly, this is an impossible task. These persons cannot leave their homes to shop; find it difficult to prepare food; and lack the incentives that companionship provides. Quite simply, in their isolation and loneliness, good health is a less compelling pursuit than it is for those of us who are more mobile.

Whether the cause is low income, nutritional ignorance, lack of motivation, poor health, or a wide range of other common afflictions, numerous experts tell us that, even in the general elderly population, millions are malnourished. For the homebound, these diet problems are even more severe and the incidence of malnutrition is higher.

The result has been a disturbingly high level of anemia, mental depression, subclinical pellagra and protein deficiency, as well as higher rates of illness and longer, less complete convalescence.

In response to these unique nutritional problems of the aged, the Congress in 1972 established a nutrition program for the elderly, title VII of the Older Americans Act. Last year this program provided approximately 240,000 hot meals and various supportive services each weekday in a congregate setting.

Title VII is, by philosophy and structure, committed to providing an environment where the lonely and withdrawn senior citizen can meet with friends and enjoy their company as well as a nutritious hot meal. This idea makes as much "good sense" today as it did when enacted in 1972. It deserves our continuing support.

Unfortunately, however, the congregate meal philosophy, when combined with severe budgetary limitations, virtually excludes the homebound elderly. These 3 to 4 million Americans by the nature of their condition, cannot realistically attend the congregate meal site. Yet, last year only 13 percent of title VII meals were delivered to homes, a figure roughly equal to 30,000 of the 240,000 meals served.

Under the current congregate approach, feeding the estimated needy homebound would require a title VII program expansion in the area of 1,700 percent. Attempting to meet the need of the homebound elderly under the present design of title VII without a separate and additional commitment is obviously impractical and highly unlikely.

The evidence clearly indicates that for these several million persons, a home-delivered, nutritious meal often makes the difference between additional years in their own homes or institutionalization in costly nursing homes. When a senior can no longer shop or prepare meals, when hunger becomes a daily experience, there is currently no alternative available other than a nursing home or hospital.

A meals-on-wheels program would, therefore, reduce spending in the health care sector. Expenditures for nursing homes last year reached $9 billion, an increase of over 20 percent from 1974. In fact, these expenditures have grown steadily and substantially in the past 9 years, with the Government paying a major and increasing share. In 1975, public outlays were over $5 billion, 60 percent of which was paid by the Federal Government.

These costs are much higher than they need be. Studies carried out by gerontologists in numerous localities have consistently shown that from 10 to 40 percent of nursing home residents are not in need of institutional care; many are there simply because they cannot cook for themselves. Yet because of the limited choice of services, and in many cases the lack of home-delivered meals, the aged are often forced to seek an institution even though it may not be appropriate to their needs.

The cost of a nursing home is generally over $20 per day, while a home-delivered meal costs under $2. In a few months, staff of this committee will conclude a year-long analysis which we believe will demonstrate, among other things, that an investment of $80 million to provide from 125,000 to 175,000 home-delivered meals per day will reduce nursing home expenditures from $200 to $400 million.

It should be noted that these figures are extremely conservative estimates. They are associated only with a first year savings of nursing home costs based on an $80 million meals-on-wheels program. They do not include the cost savings expected from reductions in the frequency and duration of hospitalization due to nutrition-related illnesses; nor do they project the potential savings of an expanded meals-on-wheels program reaching larger numbers of the homebound elderly.

It is true that a substantial portion of the freed funds would probably go to expanding service needs. But it is at least clear that we can take action which will insure a more efficient use of public funds in this area, while minimizing the excessive institutionalization of our homebound elderly.

Up to this time, the Federal Government has largely left the task of feeding the homebound to chance. While local meals-on-wheels organizations have done a tremendous job with their limited resources, they cannot without Federal assistance tackle more than a small portion of the need.

The bill which I am introducing today along with Senators PERCY and KENNEDY, starts us in the right direction.

Title VII of the Older Americans Act, the elderly nutrition program, would be amended to provide new and additional funds specifically for home-delivered meals: $80 million for fiscal year 1977, $100 million for fiscal year 1978.

These moneys would be distributed to the States in accordance with the current title VII formula; that is, each State receives an amount based on the number of persons 60 years and over in that State as compared to the number of such persons in all States. Each State agency responsible for administering these funds would make grants in cash or in kind to title VII projects or to local meals-on-wheels organizations for the purpose of providing home-delivered meals. Any organization receiving funds under this act may not use more than 20 percent of their funds for administrative purposes.

Preexisting community meals-on-wheels organizations with demonstrated success in home delivery of meals must be given priority in awarding grants. These small, local programs, staffed almost entirely with community volunteers, maintain lower costs than could a Federal program and create a feeling of warmth and sensitivity for the elderly which cannot be matched merely by Federal money.

This preference, however, should also be given with the understanding that not all such groups are capable of quality and efficient operations.

Among the criteria which should be used in such determinations are cost per meal, administrative and personnel expenses, startup and equipment costs, quality of meals served and others which the Commissioner deems advisable.

The title VII project and the meals-on-wheels group should work closely together for referral and other purposes. When an elderly person in the congregate program becomes disabled or otherwise limited in mobility, that person should be referred to the contracting meals-on-wheels group. By the same token, when a temporarily disabled person regains mobility, that person should be referred back to the congregate program and home-delivered service should cease.

It is not intended that persons who are capable of participating in the congregate program receive home-delivered meals. Each potential participant should be screened prior to being served under this act. This screening may be accomplished automatically by referrals from physicians, visiting nurses, or the congregate program or may be undertaken by staff or volunteers of the nutrition project.

Local projects may choose to serve one or more meals a day, so long as participants receive no less than one-third of the recommended dietary allowances 5 or more days per week. Local projects may elect to provide meals on weekends. If they do, these weekend meals must provide no less than 25 percent of the RDA.

This requirement may be met by supplemental foods such as a snack, cold meal, special commercial adult formula or any combinations thereof. It should be noted that these figures represent the minimum standards and in no sense preclude the option of providing higher levels of nutritional support.

An information and referral system would be established for homebound recipients to insure maximum coordination of additional community services. Each meal delivery route must have at least one volunteer or staff member who has been trained to observe conditions in the homes of participants which would seem to necessitate the service of one or more additional community agencies. If such conditions exist, the volunteer or staff member would report these conditions to a volunteer or staff member in the project's central office whose responsibilities would include contacting the appropriate community agency. Within a reasonable period of time, a followup check of that agency's action should be made and noted in participants' files.

In addition, each project would offer an information service to participants, including an easy-to-read flier or poster, which would list names, addresses, and phone numbers of community agencies and emergency services for purposes of information and referral; no greater than 1 percent of funds available under this act may be used.

Each project receiving funds under this act would be strongly encouraged to conduct community outreach, using techniques similar to those used in participant outreach, to attract and use a substantial pool of volunteers. In addition, projects or local organizations could use funds available under this act, when appropriate, to compensate volunteers for transportation expenses incurred in the delivery of meals to the homebound participant.

Complementing the above provisions, the bill would establish a demonstration project to study the National Aeronautics and Space Administration Meal Systems for the Elderly. This system, developed in cooperation with the LBJ School of Public Affairs at Austin, Tex., and United Action for the Elderly, mails or delivers a package of seven complete, shelf-stable, freeze-dried or canned meals to homebound elderly on a weekly basis. Preparation of these meals by the elderly requires only facilities sufficient to boil water. In the past year, the NASA-LBJ project has been tested successfully on over 120 elderly participants in Texas.

It is important to note that this system is not intended to replace either the regular congregate or home-delivered meal programs. Personal contact with the elderly is an important feature of these programs and should not be displaced. Rather, this system is designed to provide meal service only to those persons who are beyond the reasonable reach of any current meal service. The NASA Meal System can effectively serve those persons who are geographically isolated, live in an area where no program exists, or are on waiting lists of programs with limited caseloads.

The pilot project would be conducted in portions of three States, chosen to provide an appropriate mix of rural and urban environments. Each demonstration project will include a medical evaluation to assess, at minimal inconvenience to the participants, the health benefits of nutritional support for the elderly.

At the conclusion of the demonstration project, the Commissioner shall report the results to Congress, together with recommendations for legislation which he deems appropriate.

All other title VII requirements for sanitation, eligibility, participant contributions, and so forth, would be applicable to this act, excepting section 706A(6).

Despite the cost effectiveness of meals-on-wheels, there are many who will say that we cannot now afford to begin such efforts. In fact, we can no longer afford the extravagance of ignoring them.

If spending a dollar today to feed a senior citizen will reduce expenditures by $5 next year in health support services, then we are compelled to do so by the concerns of our budget as well as the dictates of our conscience. The unwillingness to provide adequate medical care for the aged is tragic, but the unwillingness to spend even modest amounts to keep them healthy is even less defensible.

I ask unanimous consent that the National Meals-on-Wheels Act of 1976, together with an analysis of the bill, be printed in the RECORD.

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

S. 3585

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 "National Meals-on-Wheels Act of 1976."

SEC. 2. Section 706(a)(1) of the Older Americans Act of 1965 is amended by inserting "(A)" immediately after "(1)", by inserting after the semicolon the words "and, or", and by adding after such section the following new subparagraph:

"(B) to establish a project (referred to herein as a 'nutrition project') for the elderly, blind, and disabled which, five or more days per week, provides at least one home-delivered meal which assures a minimum of one-third the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council: *Provided,* That any nutrition project which elects to serve such meals more than 5 days a week must assure, at a minimum, an amount of commercially available ready-for-use nutritionally balanced liquid product or light snack, or both, which provide at least 25 per cent of such recommended dietary allowances for each day in which no home-delivered meal is provided. Preference, where feasible, should be given to the use of organizations, such as meals-on-wheels groups, which have demonstrated an ability to operate such services efficiently and reasonably;"

SEC. 3. Section 706(a) of the Older Americans Act of 1965 is amended by striking out "and" at the end of paragraph (10), by redesignating paragraph (11), and all references thereto, as paragraph (13), and by inserting immediately after paragraph (10) the following new paragraphs:

"(11) to operate an information and referral system for homebound individuals receiving meals under this title by—

"(A) training the delivery personnel so that such personnel may make informed judgments about the additional service needs of meal recipients; and

"(B) reporting the additional service needs to agencies, groups, or individuals who might be of assistance in meeting such needs;

"(12) to seek and utilize volunteer personnel for the provision of home-delivered meals to the maximum extent possible and to compensate such personnel when appropriate for transportation expenses incurred in the delivery of such meals; and".

SEC. 4. (a)(1) Section 708 of the Older Americans Act of 1965 is amended by inserting "(a)" after the section designation.

(2) Section 708(a) of such Act (as redesignated by paragraph (1) of this subsection) is amended by inserting "and paragraph (1)(B), (11) and (12) of section 706(a)" after "section 707(c)" in the parenthetical.

(b) Section 708 of such Act is amended by adding at the end thereof the following new subsection:

"(b) In addition to the sums authorized by subsection (a), there are authorized to be appropriated $80,000,000 for the fiscal year 1977, and $100,000,000 for the fiscal year 1978 for the purpose of providing home delivered meals pursuant to section 706(a)(1)(B): Provided, That not more than 20 per centum of such funds shall be used for administrative expenses and supportive services. Sums appropriated pursuant to this section to carry out the provisions of this Title shall remain available for such purposes until expended."

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION MEALS SYSTEM FOR THE ELDERLY DEMONSTRATION PROJECTS

"SEC. 710. (a) The Commissioner shall conduct a demonstration project involving at least 3 States to determine the feasibility of using the meals system designed by the National Aeronautics and Space Administration for the elderly as a component of or as a substitute for regular nutrition projects assisted under this Act particularly in areas where normal delivery services under such a nutrition project are not feasible or practicable or are too costly. Each such demonstration project shall include a medical evaluation.

"(b) The Commissioner shall report to the Congress on the results of the demonstration projects authorized by this section together with such recommendations including recommendations for legislation as he deems appropriate.

"(c) There are authorized to be appropriated for the fiscal year 1977 such sums as may be necessary to carry out the provisions of this section.".

EXPLANATION OF THE NATIONAL MEALS-ON-WHEELS ACT OF 1976

The following is a brief description of the bill's major provisions.

1. Title VII of the Older Americans Act, the Elderly Nutrition Program, would be amended to provide separate authority for home-delivered meals to the homebound elderly, an extremely vulnerable group not now being reached.

2. The number of meals served each day to the homebound would remain a local project option, so long as participants are provided no less than one-third of the Recommended Dietary Allowances on five or more days per week. Projects may elect to serve meals on weekends. This requirement may be met by delivering on Friday supplemental foods such as a snack, cold meal, or special adult formula. If they do, these weekend meals might provide no less than 25 per cent of the R.D.A.

3. An information and referral system would be established for the homebound recipients, to insure maximum coordination of additional community services. Food de-

livery personnel will be trained to make informed judgments about the additional service needs of the elderly recipients and report these needs to the appropriate agencies, groups or individuals.

4. Each project would be encouraged to attract and utilize qualified community volunteers to deliver this nutrition service. In addition, projects may compensate volunteers, when appropriate, for transportation expenses incurred in the delivery of meals to homebound participants.

5. Preference in awarding grants for the homebound nutrition program must be given to pre-existing community Meals-on-Wheels organizations, which have demonstrated an ability to successfully deliver meals to the homebound.

6. The Act also establishes a demonstration program to study the NASA Meals System for the Elderly. This system, on a weekly basis, mails or delivers a package of complete, shelf stable meals (such as freeze-dried or canned) to homebound elderly. The program is designed to reach those elderly who cannot be served by the current delivery system. The pilot project would be conducted in portions of three states.

At the end of the year-long project, the Commissioner shall report to Congress on the results of the demonstration projects together with such recommendations as he deems appropriate.

7. There are authorized to be appropriated $80 million in FY 1977 and $100 million in FY 1978 for the purposes of providing home-delivered meals and supportive services for the homebound. No more than 20 per cent of these funds may be used for administrative and supportive services costs. Any unspent funds must be carried over to be expended during the following fiscal year.

Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join the Senator from South Dakota in introducing this important legislation. This bill amends the Older Americans Act of 1965 to provide for the establishment of a national meals-on-wheels program. Presently, meals-on-wheels is a local operation, manned by volunteers who deliver one hot meal daily to homebound senior citizens. In addition to expanding the existing program, the bill introduced today will also allow disabled persons of any age to participate in the program. I specifically requested that this provision be included in Senator McGOVERN's bill.

The meals-on-wheels program is one of the most popular of our nutrition programs. Elderly citizens like it not only because they receive one nutritious meal daily, many elderly persons live alone, and through meals-on-wheels they have contact with other persons, thus breaking the monotony of solitary existence. Doctors tell me they see a marked improvement in a person's health after one reestablishes contact with other persons.

One of the key points to this legislation is that it is preventative health care treatment. Experience reveals that one nutritious meal a day allows homebound citizens to live in their own homes instead of moving to a nursing home. One daily meal is but a fraction of the cost of providing nursing home care. When this program begins operation, I anticipate Federal savings to result from decreased costs of institutionalization of senior citizens.

When listening this morning to testimony before the Select Committee on Nutrition and Human Needs, I was impressed by the unexpected rewards received by participants in the meals-on-wheels program. New self-esteem, a rejuvenation of spirit, and a more positive outlook on life are side benefits the shut-ins have experienced. A sense of accomplishment, satisfaction gained from a worthwhile project, and a new understanding of elderly citizens and their difficulties are side benefits gained from volunteers delivering the meals.

I am especially hopeful that this program will retain its present characteristics of a community-oriented service project, and that the personal elements of kindness and concern will be maintained.

By Mr. TOWER (by request):

S. 3586. A bill to institute certain due process requirements with respect to the supervisory authority of the Federal banking agencies. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. TOWER. Mr. President, I would like to submit for the RECORD a letter from a constituent, Michael E. Burns of Houston, who was formerly the minority counsel of the Senate Banking Committee and who was most recently the Executive Assistant to the Comptroller of the Currency, regarding certain due process problems in the banking agency supervisory powers area. Mr. Burns had previously written concerning this subject, and I introduced his letter and a proposed amendment to S. 2304, a supervisory powers bill, in the RECORD on April 8, 1976. There was not time to review the amendments in the committee before the markup on S. 2304 thereafter, but the chairman indicated that he would consider setting a hearing on the questions raised by Mr. Burns' amendments later in this session.

Mr. Burns has since revised his amendments somewhat in response to agency criticism of them, but maintains that the due process issues still must be resolved by legislation of essentially the same nature as earlier proposed. The revised amendments of Mr. Burns are herewith introduced as a separate bill, and I will ask the chairman of the Banking Committee for an early hearing on the new proposal.

As Mr. Burns has pointed out, the personnel of the banking agencies are basically well-intentioned and competent individuals, but from his experience in the bank regulatory field, he has learned that arbitrary statutory power will tend to be used arbitrarily by the agencies, even though usually in a good faith belief that what is being done is in the public interest. I believe that the committee should profit from the advice of this former insider of the agencies, who has seen the public policy issues involved here from the agencies' point of view, from the legislature's point of view, and now from the banker's point of view in the private sector.

The ultimate thesis that Mr. Burns is basing his proposals on is that the banking agencies have so much arbitrary power that they tend to intimidate and impede the banking community generally and impair the ability of bankers to operate their banks according to market principles and influences. Due process is not only owed to every citizen as a matter of constitutional right, but it also helps preserve the market freedoms upon which our entire society and economy is built.

I would also like to submit for the RECORD a recent article from the Houston Post which deals with some of the concerns addressed by Mr. Burns.

I ask unanimous consent that Mr. Burns' letter, the Houston Post editorial, and the bill be printed in the RECORD.

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

S. 3586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. Section 8(e) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818(e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is either one involving personal dishonesty on the part of such director or officer or one which demonstrates his gross negligence in the operation or management of the bank or a willful disregard for the safety or soundness of the bank, and, in addition, the individual has evidenced his unfitness to continue as a director or officer, the agency may serve upon such director or officer a written notice of its intention to remove him from office, subject to the provisions of paragraph (5) of this subsection.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or his gross negligence in the operation or management of the bank or institution or a willful disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in

any manner in the conduct of the affairs of the bank, subject to the provisions of paragraph (5) of this subsection.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participating in any manner in the conduct of the affairs of the bank, subject to the provisions of paragraph (5) of this subsection. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency for good cause shown at the request of (A) such director or officer or other person or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice has been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer, or other person with respect to a national banking association or a district bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(5) Any notice of intent to issue a removal or suspension order under paragraph (1) or (2) of this subsection, and any notice of suspension or prohibition under paragraph (3) of this subsection, shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the grounds therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs, and of the consequent 'fitness' or 'unfitness' of that individual to participate in the bank's affairs. With respect to the questions of 'personal dishonesty' and 'breach of trust' as they relate to such risk and fitness assessments, the agency or a reviewing court may conclude at any time that the individual concerned is not unfit and does not in fact pose an undue risk to the bank in question by virtue of dishonest conduct or breach of trust, due to any one or more of the following considerations: the technical, unintentional nature of the crime or breach of trust involved, if any; the absence of bad faith conduct with respect thereto; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit the dishonest act or breach of trust in question, the novelty of the crime, if any, complained of; the presense of good faith reliance upon advice of counsel; evidence of rehabilitation; and any other such considerations commonly utilized by the courts in similar injunctive situation under other laws.

"(6) Any person subject to an order of removal or prohibition under this section shall be entitled to agency reconsideration of such order at any time for good cause shown. The provisions of subsection (h) of this section shall apply anew to any petition alleging such good cause and to any order sustained by the agency against such petition. The agency shall render a decision upon such a petition within sixty days of its submission, but need not hold a hearing with respect to such person's petitions more often than once every three years.

SEC. 2. Section 8(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818(g)), is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the appropriate Federal banking agency may by written notice, in accordance with the procedures and criteria specified in paragraphs (3) and (4) of this subsection, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension and/or prohibition shall become effective upon service of such notice and shall remain in effect until (1) terminated by the agency, or (2) the information, indictment, or complaint is finally disposed of, without a judgment of conviction, or (3) the completion of the administrative proceedings required under paragraph (3) of this subsection.

"(2) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is convicted of the commission of or participation in a felony involving dishonesty or breach of trust, and at such time as the judgment of conviction is not subject to further appellate review, the appropriate Federal banking agency may, in accordance with the procedures and criteria specified in paragraphs (3) and (4) of this subsection, serve upon such director, officer or other person a written notice of its intent to suspend him from office or prohibit him from further participation in any manner in the affairs of the bank. Provided, however, that when there is outstanding a notice of suspension or prohibition under paragraph (1) of this section at the time of the conviction, the agency may issue an order of suspension or prohibition without further proceedings pursuant to paragraphs (3) and (4) of this subsection, although such order shall be subject to the right of review for good cause at any time thereafter pursuant to paragraph (5) of this subsection. Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

"(3) Any notice of suspension or prohibition pursuant to paragraph (1), and any notice of intent to issue an order of suspension or prohibition pursuant to paragraph (2), shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not later than fifteen days after the date of service of such notice, unless a later date is set by the agency for good cause shown, at the request of (A) such director, officer, or other person, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such suspension or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that such person constitutes an undue risk to the bank by virtue of a predilection to dishonest conduct or breach of trust, or by virtue of probable adverse public reaction to the continued involvement of such person in the affairs of the bank, the agency may issue such an order of suspension or prohibition from participation in the conduct of the affairs of the bank as it may deem appropriate. Any such order shall become effective thirty days after service upon such bank and the director, officer, or other person concerned. Such order shall be subject to the provisions of paragraph (5) of this subsection and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court, and except that an order originating upon the premise of paragraph (1) of this subsection shall terminate upon final disposition of the information, indictment, or complaint without a judgment of conviction.

"(4) Any notice of suspension or prohibition under paragraph (1) of this subsection and any notice of intent to issue a suspension or prohibition order under paragraph (2) of this subsection shall, to the extent of the agency's knowledge at the time, contain a statement of the facts constituting the grounds therefor and an assessment of the potential risk of injury to the bank involved from the further participation of the affected individual in its affairs. The mere fact of the existence of an outstanding information, indictment, complaint, or conviction for a felony involving dishonesty or a breach of trust shall not of itself preclude the appropriate banking agency or a reviewing court from concluding that the individual concerned does not in fact pose an undue risk to the bank in question from the standpoint of dishonesty or breach of trust, due to any one or more of the following considerations: the technical, unintentional nature of the crime or breach of trust involved; the absence of bad faith conduct with respect thereto; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit the dishonest act or breach of trust involved; the novelty of the crime complained of; the presence of good faith reliance upon advice of counsel; evidence of rehabilitation; and any other such considerations commonly utilized by the courts in similar injunctive situations under other laws. Provided, however, the individual who is the subject of an indictment for or conviction of a felony involving dishonesty or breach of trust shall have the burden of proof in establishing the current absence of a predilection to dishonesty or breach of trust; the agency shall have the burden of proof with respect to any claim that the individual constitutes a threat to a bank or banks by virtue of an undue risk of adverse public reaction regarding his continued association therewith.

"(5) Any person subject to an order issued under paragraphs (2) or (3) of this sub-

section shall be entitled to agency reconsideration of such order at any time for good cause shown. The provisions of subsection (h) of this section shall apply anew to any petition alleging such good cause and to any order sustained by the agency against such petition. The agency shall render a decision upon such a petition within sixty days of its submission, but need not hold a hearing with respect to such person's person's petitions more often than once every three years.

"(6) If at any time because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the bank and their respective successors take office."

SEC. 3. Section 8(h) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818 (h)), is amended to read as follows:

"(h)(1) Any hearing provided for in the section shall be held in the Federal judicial district or in the territory in which the home office of the bank is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code. Such hearing shall be private, and the findings, conclusions, and decisions resulting from an administrative proceeding held pursuant to this section shall not be admissible in any criminal proceeding. Within ten days after a hearing held pursuant to this section, the appropriate Federal banking agency or Board of Governors of the Federal Reserve System shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (h). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the issuing agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the agency may modify, terminate, or set aside any such order with permission of the court.

"(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the bank or the director or officer or other person concerned) by the filing in the court of appeals of the United States for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (1) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code, and except as provided in paragraphs (e)(5) and (g)(6) of this section."

SEC. 4. Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818 (i)), is amended to read as follows:

"(i) The appropriate Federal banking agency may in its discretion apply to the United States district court, or the United States Court of any territory, within the jurisdicion of which the home office of the bank is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance herewith."

SEC. 5. Section 19 of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1829), is amended to read as follows:

SEC. 19. (a) Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. Upon petition of such a person, setting forth the justification for such consent and describing a specific employment opportunity with an insured bank, the Corporation shall within sixty days either conduct a hearing for the purpose of assessing the potential risk to the bank from the participation of the petitioner in its affairs as a director, officer, or employee, or give its consent based upon its own investigation. The Corporation shall give such consent if it determines that the petitioner does not pose an undue risk of injury to the bank by virtue of dishonest conduct or breach of trust; otherwise it shall issue a written decision denying the petition. A decision shall be rendered on the petition within ten days after any hearing held under this paragraph. The Corporation and any reviewing court may conclude that the individual concerned does not in fact pose an undue risk to the bank in question, due to any one or more of the following considerations, in addition to any other considerations relevant to the risks and equities of the particular situation in question: the technical, unintentional nature of the crime involved, the absence of bad faith conduct with respect thereto; the absence of a predilection toward dishonest conduct or breaches of trust; the absence of an egregious, serious, and willful intent to commit the dishonest act or breach of trust for which he was convicted; the presence of good faith reliance upon advice of counsel in the circumstances for which he was convicted; evidence of rehabilitation; and any other such considerations commonly used by the courts in similar injunctive situations under other laws. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover for its use.

"(b) A person denied permission to serve as a director, officer, or employee of an insured bank after submitting a petition pursuant to subsection (a) of this section, shall be entitled to resubmit a petition at any time for good cause, except that a hearing need not be held with respect to such person's petitions more often than once every three years. Within thirty days after the service upon such person of an adverse decision under subsections (a) or (b) of this section, he may obtain review of the decision by filing in the United States Court of Appeals for the District of Columbia Circuit a written petition praying that the decision of the agency be modified, terminated or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency and thereupon the agency shall file in the court the record in the proceeding, if any, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition and the record, such court shall have exclusive jurisdiction to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency, except that the agency may modify, terminate, or set aside any such order with permission of the court. Review of such proceeding shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, and except as provided in the first and second sentences of this subsection.

"(c) With respect to the affairs of any insured State non-member bank, any hearing and decision required by this section may be held or rendered, respectively, by the Corporation in coordination with any similar hearing and order pursuant to subsection (g) of section 1818 of this title, and the specified time periods and other procedural requirements applicable in such case shall be those applicable to said subsection (g)."

BRACEWELL & PATTERSON,
Washington, D.C., June 11, 1976.

Hon. JOHN TOWER,
U.S. Senator,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR TOWER: This letter is for the purpose of commenting upon the several letters of the three federal bank regulatory agencies to you which commented upon my letter of March 26, 1976 to them setting forth several proposed amendments to their enforcement powers bill, S. 2304, and to three federal statutes involving enforcement powers. The amendments as introduced by you on April 8, 1976 to S. 2304 were designated as "Amendment No. 1579".

The agencies objected to the amendments upon a basis which might be characterized as a concern for expediency. They did not at the same time analyze the essential question whether these amendments actually interfere with supervisory effectiveness, which they do not. The amendments do add some procedural safeguards and mechanical requirements to present enforcement practice, but these do not interfere with the basic powers of the agencies to deal with truly miscreant bankers and to protect the banking system from wrongdoers. The amendments seek to redress an imbalance in the relevant laws as they now read and as they would read with the enactment of S. 2304, which lies unreasonably in favor of arbitrary and expedient exercise of police powers, as against the due process rights of the affected individuals.

I submit that the imbalance can be corrected with the amendments without impairing the effectiveness of the agencies' police powers to deal with the people who do not belong in banks. The agencies have not been willing to acknowledge as yet even that there is a due process problem with the laws in question. There is, however, an egregious due process problem with these laws, and, it seems to me, at least, that the proper focus of the agencies' attention should be upon a better balancing of the due process concern with the concern for effective policing of the banking system.

After reviewing the agencies' comments, I have undertaken to revise and improve the

amendments, although essential due process features of the original version are being retained. The revised amendments are attached in a form suitable for introduction as an independent bill.

During the Banking Committee mark-up on S. 2304, the Chairman indicated that the Committee would attempt to hold a hearing on the propositions involved in Amendment No. 1579 before adjournment, if the Committee schedule could be so arranged. Hopefully, such a hearing will be feasible and the new bill can have an opportunity for close examination by the Committee this year.

Before looking at the specific features of the amendments which appear to cause the most discomfort to the agencies, it is instructive to evaluate their general comments on and approach to the subject of due process. The comments of the Federal Reserve Board and the Comptroller of the Currency in particular on the overall effect of the amendments demonstrate the narrow perspective which characterizes their view of the constitutional issues addressed by the amendments. They commented that: "A main purpose of S. 2304 is to make easier the suspension and removal of bank officials whose actions have demonstrated unfitness to remain in a position of trust. . . . Mr. Burns' amendments would make officer suspension or removal significantly more difficult than under existing law." And: "It appears that the . . . amendments proposed by Mr. Burns would, in general, decrease rather than increase the ability of the regulatory agencies to take effective action in cases where the conduct of a bank officer or director is having or would have a significant adverse impact on the condition of a bank."

Observe the focus on expediency and the conclusionary features of the agencies' general comments: "A main purpose of S. 2304 is *to make easier* the suspension and removal of bank officials whose actions *have demonstrated unfitness*. . . ." And, ". . . the . . . amendments . . . would . . . *decrease rather than increase the ability* of the regulatory agencies to take effective action in cases where the conduct of a bank officer or director is *having or would have a significant adverse impact*. . . ." (Emphasis supplied.) The whole emphasis and interest of the agencies in this matter is toward making it *easier* to remove people from the banking industry whom *they have already concluded*, prior to any proceeding to find and evaluate the facts and risks and without reference to a Congressionally determined set of *substantive* standards, to be unfit to be in the industry. The purpose of my amendments, on the other hand, was to *correct* the extreme bias in favor of expediency against due process already in the law, and to prevent S. 2304 from adding to the injury.

It should not be, in my opinion, "easy" to deprive a man of his career by arbitrary governmental action. It may be necessary to provide for temporary interruption of a banking career while facts or charges raising questions about the risk posed by the banker to the bank concerned are investigated, but such interruptions should not stand for long without an appropriate hearing and findings process. The matter of one's personal right to pursue a career is so important that the government agency concerned should be made to demonstrate properly on the record the facts, findings and conclusions that lead them to the decision to excommunicate someone—subject to substantive standards set by Congress and subject to objective judicial review of the appropriateness of the action.

What the agencies appear to want, on the other hand, is virtual *carte blanche* to excise any banker who *in their privately arrived at opinion* is unfit to be in banking—and they do not want that opinion to be subject to substantive Congressional standards nor to review by the courts (to the extent judicial review is not already present, as it is under the removal statute). To its credit the FDIC, though opposing the amendments, has demonstrated some selective concern in fact for due process and fairness in its actual activity under the relevant laws. However, no citizen of our country should have his right to pursue his career rest upon such a discretionary basis with government officials as it now does with respect to bankers—some Congressional reaffirmation of the applicability of due process to this class of individuals is in order.

Turning now to the specific issues involved in the amendments: (1) 12 U.S.C. § 1818(e) Removal.

With respect to the agencies' general objections to Amendment No. 1579 as it affects the removal area ("§ 1818(e)"), I am less concerned about that particular area of the several laws in question because of the existence of at least some substantive standards in the statute that help prevent abuse, intentional or unintentional, by the agencies in this area, and because of the existence of judicial review under that particular procedure.

For my own part, therefore, I would be willing to drop that portion of my removal provision which would have required a violation of a cease-and-desist order for removals based upon "gross negligence" or "willful disregard", relying largely upon the assertions of the agencies that these terms are sufficiently defined in historic legal usage to be appropriately circumscribed from arbitrary use.

I do not believe that the feature of the removal amendment which would explicitly require the observance of certain judicially-derived standards for the issuance of a removal order should be deleted, as advocated by the agencies. The standards apply only to removals based upon purported dishonesty or breach of trust, and constitute a reasonable, common-sense set of factors to consider when evaluating whether an individual is truly a threat to a bank by virtue of the purported inclination toward dishonesty or breach of trust.

In this regard, the removal portion of the agencies' bill itself retains the use of the phrase: ". . . and, in addition, has evidenced his unfitness to continue [to participate in the affairs of the bank]", which is contained in the present removal law in provisions dealing with dishonesty and injury involving other banks and other business institutions. The term "unfitness to continue" relates to the same basic concern to which the proposed injunctive standards spurned by agencies are addressed—whether the individual is in fact a realistic threat to the safety and soundness of the bank. If the agencies can tolerate the concept of "fitness" to participate in the bank's affairs being in the law, there is no sound reason why they cannot also tolerate the proposed standards for judging "fitness", represented by the factors listed in the Amendment and which are presently insisted upon by courts in other injunctive situations as a matter of due process. There is not a sufficient case history in the removal area to have developed such judicial standards under this law as yet, and it would be a progressive step for Congress to simply advance the time-frame of the adoption of these standards in the interests of justice.

Further, the agencies object to the requirement in the removal amendment that they make a finding before removing an individual that he poses or continues to pose an "undue risk of injury to the bank by virtue of personal dishonesty". The purpose of this provision is primarily to prevent the agencies from using an allegedly dishonest act which occurred at an earlier date as a self-sufficient basis for removal, without considering, in the light of the factors proposed in the Amendment, whether the individual still appears to be of a dishonest inclination at the time of the proposed removal action. The concept of continuing "fitness", which is in the present law, does help focus attention on the question of the present status of the individual's good faith, but the underlying concern of that phrase and of the entire statute should be more explicitly set forth—that the further participation in the affairs of the bank by such an individual should not constitute an undue risk to the bank.

In the new bill, I have retained one essential reference to the above concern regarding the "undue risk of injury" (in § 1818(e)(5) of the proposed law), but in order to remove uncertainty as to the impact of that phrase I have deleted the references to it in other sections of the removal provision which were potentially confusing. My intent is to use the phrase only as an explanation of the meaning of "unfitness to continue", not as a separate or more burdensome requirement on the agencies. In this connection, one paragraph of the removal provision does not presently contain the reference to "unfitness to continue", which is § 1818(e)(1), dealing with removable conduct occurring with respect to the particular bank involved in the removal action. Since that paragraph can potentially cover prior conduct, it should have the same reference to the concept of a continuing threat that is in other paragraphs in the present removal law by virtue of the "unfitness to continue" language. The new bill adds such language to § 1818(e)(1).

(2) 12 U.S.C. § 1818(g)(1) Suspension.

As described in my letter of March 26, 1976, the present law regarding the suspension from active involvement in the banking business of persons indicted for or convicted of a felony involving dishonesty, 12 U.S.C. §1818(g)(1) ("§ 1818(g)(1)"), is completely devoid of the types of procedures and standards required to support a constitutionally sufficient injunctive action. If it were not for the judicial withdrawal provision of the statute which affects § 1818(g)(1), there is almost no question that by this time it would have been invalidated by the courts as violative of the due process rights of the individuals affected by it. In the pending case of *Feinberg vs. FDIC*, 522 F. 2d 1335 (1975), a three-judge federal court will rule on the question of whether the combination of the withdrawal provision and the suspension provision acts to deprive the affected individuals of due process.

In the meantime, the statute cries out for corrective Congressional action, which could be accomplished along the lines proposed in Amendment No. 1579 and the new bill derived therefrom which is attached.

However, the agencies object to Congress proceeding upon the suspension aspects of the Amendment. The FDIC has indicated that it may be writing its own version of a new suspension statute, although it does not share with us any of the philosophy or purposes of such a revision.

The Federal Reserve Board apparently believes that it resolves the due process problem by virtue of various due process factors that it supposedly takes into consideration *at its discretion* in connection with a suspension proceeding, where it *may* offer a hearing (to my knowledge, it has offered such a hearing only once, at this firm's recent and elaborately documented request, and in the light of the pending *Feinberg* case). However, it appears not to want to be accountable to the courts or Congress for the rationalia of its decisions under the statute.

The Comptroller of the Currency objects to the amendment because it does not want the responsibility for evaluating the merits of the individual's claim to honesty while a criminal proceeding based on alleged dis-

honesty is in process (or has already occurred); such a proceeding does not in fact present an irreconcilable conflict of governmental functions, if properly structured.

These objections do not face the overriding issue in this matter squarely: is §1818(g)(1) unconstitutionally unfair to the affected parties and should it be reformed? The answer is unquestionably yes. The further question as to whether it can be reformed in a way which protects the effectiveness of the agencies in dealing with the potentially dishonest individual, and which protects the public's interest in a sound banking system, is also answered by a definite yes. The Amendment proposed to accomplish such a "constitutionalizing" of the statute without sacrificing the protection afforded by it to the banking system.

Specifically, the Amendment would have:

A. Set forth the purpose of the statute in its own text, i.e., that it is intended to be used in circumstances of felony indictment or conviction to provide protection for a bank either from the actions of a person who is in fact a present threat to the bank in terms of dishonesty, or from any adverse public reaction that might reasonably be expected to follow from his continued association with the bank in the face of the notoriety of the criminal charges, whether he appears to be dishonest in fact or not.

B. Provided that the set of equity and risk factors used by the courts in evaluating the merits of similar injunctive-type proceedings based upon purported dishonesty and brought under the Securities Exchange Act of 1934 be made expressly applicable to § 1818(g) suspension orders.

C. Provided for administrative hearings.

D. Provided for judicial review of suspension orders.

E. Provided an opportunity for administrative and judicial review of an outstanding suspension order for good cause.

Some of the technical aspects of the Amendment in the suspension area may appropriately be modified to accommodate the critical comments of the agencies on these provisions, but I do not believe that their fundamental features should be disturbed because they are essential to a constitutional and fair treatment of the affected individuals. Contrary to the fears expressed by the agencies, these provisions do not impair their effectiveness. Specifically, in this case, the changes proposed would not prevent an agency from acting immediately to remove an indicted banker from participation in the affairs of a bank as a safety measure while the agency considers whether the facts appear to justify proceeding toward a more permanent order. The Amendment would impose a short time-frame in order to better protect the affected individual's right to a speedy resolution of his interrupted career rights, but the time-frame is sufficient to allow the agency to either prepare for a hearing on a more permanent order or to decide that there is good reason to drop the temporary order altogether as being unnecessary to protect the bank.

If the agency conducts a hearing and determines that the individual is indeed a threat to the bank, it would still be able to issue its usual order. The principal requirement the Amendment would place upon the agency to support such an order is that it evaluate the facts of the situation as either supporting the thesis that he is not in good faith and is a realistic threat to the bank, or as supporting the thesis that his continued association with the bank would be reasonably likely to have an adverse effect upon the relevant banking public's attitude toward the bank. The Amendment would further have those evaluations and findings subject to potential judicial review, an important reason for which being to screen out the personal biases and prejudices that tend too often to surface in the attitudes of bank regulators regarding the subjects of their regulation.

The agencies raise a fundamental objection to the administrative hearing and the findings ideas which deserves to be answered: they have asserted that they do not want to be placed in the position of having to "try" or "retry" the criminal charges, being merely administrative agencies without appropriate jurisdiction over such charges. I believe that this potential problem is resolvable in this manner:

A. The theory should be that the agency will try to make the best evaluation of the character of the individual that it can, with such objective facts as can be marshaled and placed on the record and with such impressions as it may draw from discussions with subject.

B. There is no specific requirement in the Amendment that the agency actually make a finding that the individual is guilty of the crime as charged, nor is such a finding probably appropriate, even if felt strongly to be a correct one. The agency merely needs to conclude that, based upon the facts before it and upon the hearing proceedings, the individual appears to be of a dishonest predilection, and to build as much of its subjective basis for so concluding into the hearing record or the decision itself as it is feasible to do. Rather than announce any finding pertaining to the conclusion of criminal guilt, the agency could announce a finding (if appropriate) that there is "good and sufficient reason to believe that Mr. Jones did thus-and-so, and that such conduct was motivated by dishonesty", which is a factual finding and not an application of a legal conclusion such as guilt of a particular crime. Admittedly, the factual finding may be the essential and virtually sufficient ingredient for the legal-guilt conclusion, but as this proceeding could be completely private and have no input to the criminal proceeding (except as to common evidentiary matters), there should be no inherent conflict of government roles with this procedure. The new bill specifies that the findings and decisions of the agencies under this procedure will not be permitted as evidence in any criminal proceedings.

C. If the individual, in order to protect his Fifth Amendment right to remain silent with respect to a criminal charge, chooses in the administrative hearing not to invoke such right and not to discuss the facts relating to the criminal charge, the scope of the hearing is less than it otherwise would be. Such an invocation should not prejudice the question of the individual's basic honesty, since there are many reasons not related to the underlying guilt or innocence of the person that may make it tactically unwise not to utilize the Fifth Amendment protection.

D. In order that the indictment or conviction be accorded some appropriate weight, however, particularly in light of the individual's possible invocation of his Fifth Amendment right and the consequent removal of a major portion of relevant facts from the scope of the hearing, it would not be unreasonable that the fact of indictment or conviction should be allowed to create a *presumption* of dishonesty, which it would be up to the individual to rebut in the hearing. If such person decides that it is more important to preserve his Fifth Amendment right to remain silent on the criminal charge, he would be entitled to do so, but such silence may make it difficult for him to overcome the presumption of dishonesty.

It should not, however, be made mandatory for an individual to abandon the Fifth Amendment in order to have the opportunity for a successful rebuttal. If such person can show satisfactorily by virtue of other information, including that developed by the discussion in a hearing and character witnesses, that he is not dishonest, the agency should be capable of making a finding of good character in spite of the indictment and in spite of his invocation of his Fifth Amendment right. In fact, since the whole suspension provision is discretionary with the agency, it is always in the position of being able to drop the proceedings or terminate an order, or even never to bring any proceedings at all. Presumably, it would drop a pending proceeding at any time it concluded that the individual was not dishonest in fact (assuming the expected public-reaction aspect of the continued association would not pose a problem for the bank).

The agencies have further objected to the requirement of two separate hearings—one for the indictment stage and one for the conviction stage—claiming that such a procedure is too burdensome. This problem can be resolved by allowing the hearing and any adverse decision based upon an indictment to stand after conviction, without further proceedings (other than as specified in the provision for "good-cause" review).

Further, if the agency decision based upon the indictment should be favorable to the individual, the agency should have the right to reconsider (upon a rehearing) the initial decision if a conviction results. An adverse agency decision based upon an indictment, which indictment is subsequently terminated by other than a conviction, should continue as in present law to be itself automatically terminated.

Although not a specific objection of the agencies, a further potential administrative burden of the Amendment as it affects the suspension provision might be the feature providing an automatic right for a person suspended to have a review of the suspension order every three years. I would be inclined to amend this provision to read that such a review need only be granted when good cause is shown for such a review. I would contemplate that such good cause could be shown by such indications as evidence of reformed character, new evidence of an exonerating nature relating to the conviction circumstances, or changes in the law involved in the conviction which make the relevant conduct cease to be criminal.

In light of this good-cause modification, I would retract the three-year feature of the Amendment as it applies to an automatic right of review, since these "good causes" for reinstatement should not be barred by such time constraints, nor should the agencies have to hear everyone's attempt to construct a good-cause rationale as a matter of routine every three years. However, in order to avoid an unnecessary administrative burden from repetitive, non-meritorious good-cause petitions, the agencies should be required to hold a hearing with respect to a given individual a maximum of once every three years. This procedure would be subject to the regular judicial review procedure also imposed by the Amendment upon the basic suspension process.

(3) 12 U.S.C. § 1829 Employment.

The section of the Federal Deposit Insurance Act dealing with the employment in an insured bank of a person convicted of a misdemeanor or felony involving dishonesty, 12 U.S.C. § 1829 ("§ 1829"), is deficient in that it does not offer a clear statutory opportunity for formal review of the question of current fitness to be involved with a bank, nor does it provide any Congressionally determined standards to guide the agency in making such a determination. The Amendment's provisions were intended to cure those deficiencies. The fact that the FDIC attempts to offer some due process to those affected and does not read the statute as restrictively as it could be read is commendable, given the general lack of status of the concept of due process in the eyes of the bank regulators, but that in itself does not cure the statutory defect nor the lack of certainty with respect to the affected person's rights.

The FDIC objects to the Amendment's provisions in this area, primarily for mechanical or otherwise curable afflictions. The agency does not wish to: (1) have a "hearing on all [§ 1829] applications, primarily because as a practical matter many of such applications are now resolved in the petitioner's favor without any hearing"; (2) have a hearing subject to the substantive criteria in the Amendment because they are "inappropriate for the consideration of applications of individuals convicted of petty crimes or seeking employment in a non-executive capacity"; and (3) render advisory opinions with respect to the suitability of a given person for some as yet undefined or unknown position in a bank, the identity of which bank may not even be known.

I can accede to these objections because they appear to be reasonable and they can be accommodated without destroying the fundamental reforms which are needed in this particular statute. I have therefore revised the Amendment to:

(1) Extend the time period for holding a hearing under the statute from thirty days to sixty days, in order to provide adequate time for the agency to review the case unilaterally and to make a decision as to whether it will grant the requested permission without the necessity of a hearing; otherwise the hearing should be held within such sixty days.

(2) Clarify that any and all considerations relevant to risk to the bank and equity to the individual may be taken into consideration in dealing with a request for the statutory permission, not just those which are emphasized in the Amendment. This should allow the agency to deal more flexibly with the cases of petty crimes and/or non-sensitive positions as to which it expressed concern.

(3) Require that the applicant specify a particular employment opportunity and bank in his application in order to prevent the agency from having to render advisory opinions; such representations could, of course, be checked for accuracy by the agency and any permission granted could be specific as to the position and bank involved.

With these considerations in mind, then, I recommend to you and to the Congress the revised version of the Amendment attached hereto. The removal, suspension, and employment powers of the agencies are only a small part of the unduly arbitrary powers currently held by the agencies. In a later letter, I hope to transmit to you a draft of a bill that would serve to correct the tremendous arbitrary power inherent in the unrestrained examination-related powers of the agencies and in their effective authority to grant or deny various types of official permission on spurious and irrelevant grounds.

The removal, suspension, and employment powers Amendment is in reality a test case in a confined situation where Congressional action to move forward with reform of the arbitrary powers of the banking agencies could be observed and evaluated before the larger reforms are attempted. The great degree of arbitrary power enjoyed by the agencies detracts seriously from the effectiveness of market principles in governing the behavior of banks, and the public is the ultimate loser because banks generally are less innovative, less inclined to take appropriate lending risks, less responsive to the banking public while their resources and efforts are focused on satisfying unnecessary and inappropriate regulatory demands.

Sincerely yours,

MICHAEL E. BURNS.

[From the Houston Post, May 7, 1976]

TWO-EDGED WEAPON

The Senate Banking Committee, in response to disclosures that a number of banks and bank holding companies were on "problem lists" kept by the federal bank regulatory agencies, has approved legislation strengthening these agencies' supervisory power over the banking system. The agencies that would be given broadened authority by the bill—the Federal Reserve Board, the Federal Deposit Insurance Corporation and the comptroller of the currency—generally favor it. But if the measure becomes law, some of its provisions will require extremely judicious application. Otherwise, individuals and businesses could be damaged unjustifiably.

The law now permits a bank regulatory agency to order the removal of a bank officer or director for fraud or personal dishonesty. But the Senate bill would extend the grounds for removal to "gross negligence" or "willful disregard for the safety or soundness of the bank." The measure would further empower the agencies to order bank holding companies to divest themselves of non-bank businesses that pose a serious risk to banking operations.

Obviously, what constitutes gross negligence or willful disregard in the first instance or serious risk in the second could, under certain circumstances, be subject to close—and controversial—judgment calls by regulators. Fixing individual responsibility for transactions or policies deemed a threat to the soundness of a bank could also prove difficult, if not impossible, in some cases. Take bank loans, for instance. It was the number of shaky loans in their portfolios that landed many of the banks, including some of the nation's largest, on the "problem lists" of the federal regulators. But most banks rely on committees of bank officers, not a single official, to make decisions on loans beyond relatively small, routine sums. They are, in other words, shared decisions based on the knowledge and experience of several bankers.

If the regulatory agencies are armed with the broader powers in the Senate bill, they must take care to distinguish between acts that constitute gross negligence and simple errors of judgment.They must also weigh unforeseen adverse developments, such as the 1974–75 recession. During this period many loans became shaky that would have been sound under normal economic conditions.

Another provision of the Senate bill would give the regulatory agencies new power to levy civil penalties on banks and individuals for breaking certain federal banking laws and rules. Violators of an agency's cease-and-desist order could be penalized $10,000 a day and those violating the Bank Holding Company Act or rules on loans to bank officers could be assessed a penalty of $1,000 a day.

Widely publicized disclosures of the lists of "problem banks" kept by federal bank regulators had no noticeable effect on public confidence in the banking system. They did, however, spur demands for closer scrutiny of banking operations and a stronger federal supervisory role. The Senate bill is one answer to those demands. Its aim is to provide additional weapons to protect the soundness of the banking system without resorting to a drastic overhaul of that system or the agencies that regulate it, as proposed by some members of Congress. But the new weapons would have to be used with care to avoid injuring the industry they were designed to protect.

By Mr. HUGH SCOTT:

S. 3587. A bill to amend title XVI of the Social Security Act to provide that, in the case of an individual residing in a retirement home or similar institution, certain payments made to such home or institution by relatives of such individual shall not be regarded, for purposes of such title, as income of such individual. Referred to the Committee on Finance.

Mr. HUGH SCOTT. Mr. President, I am sure that my colleagues share my sensitivity to the plight of our senior citizens who are victims of constant financial roadblocks.

I would like to cite a particular case which I believe deserves a legislative remedy. An 81-year-old woman living in a retirement home pays a monthly rent of $225. Her income consists of $165 per month in social security benefits and $32 in supplemental security income. The nephew of this woman, her only relative, has been paying the remainder of the balance which amounts to $28. According to supplemental security income regulations, the nephew's contribution was more than she was allowed to receive. This woman received a notice from the Social Security Administration stating that she owed the supplemental security income $733.66 for overpayment and would be removed from supplemental security benefits.

As a result of the injustice in this case, one case out of many thousands, I am introducing a bill to amend title XVI of the Social Security Act to provide that, in the case of an individual residing in a retirement home or similar institution, certain payments made to such home or institution by relatives of such individual shall not be regarded, for purposes of such title as income of such individual. I urge my colleagues to join me in support of this bill which provides for a measure of legislative relief for our senior citizens.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 3587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1612 (a)(2)(A) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (i), and

(2) by inserting, immediately before the semicolon at the end of clause (ii) the following: ", and (iii) in the case of any individual or his eligible spouse who resides in a retirement home or similar institution, support and maintenance, furnished to such individual or spouse for any month by such institution, shall not be included to the extent that the charge imposed by such institution therefor is in excess of the amount of the monthly supplemental security income benefit payable to such individual or spouse (as determined without regard to this subparagraph) and such excess is paid by a person who is related to such individual or spouse, as the case may be, by blood marriage, or adoption".

(b) The amendments made by this section shall be effective in the case of monthly benefits, under title XVI of the Social Security Act, for months after the month in which this Act is enacted.

By Mr. GARY HART:

S. 3588. A bill to provide a pilot program for review of certain existing tax expenditures, and to provide for systematic review of new tax expenditures and existing tax expenditures which are continued. Referred to the Committee on Finance.

Mr. GARY HART. Mr. President, at a time when the Congress is testing its new technique to control the Federal budget, it is essential that we include one very important form of spending: The revenue which is lost through the special preference provisions of the Tax Code. Over 80 such provisions exist in our laws, through which we now "spend"

over $100 billion annually. Many of these "tax expenditures" have never been subject to congressional review, principally because no formal legislative process exists by which it becomes necessary to do so. I am offering today a bill which would provide for the mandatory periodic review of tax expenditure programs.

Earlier this year I introduced a bill to set up a pilot "sunset" system for six Federal independent and regulatory agencies. The measure sets automatic termination dates for each agency, at which time Congress must make a thorough assessment of its value to determine if that agency should be continued. The termination and review process would continue on a periodic basis. The bill I introduce today employs the sunset concept to give the Congress a simple, but effective, means to control tax spending.

The bill has two principal components: A pilot sunset experiment for six specific tax expenditure provisions, and a provision to apply sunset to any new tax expenditure passed by Congress. In both cases, each tax provision must undergo comprehensive review by committees in both Houses of Congress at least every 4 years. On the basis of a detailed study to be prepared by the Congressional Budget Office, and on the testimony of interested parties from the public and from Government, proponents of a tax provision must justify its continued existence. An important aspect of the entire review process is that the burden of proof in determining the value of a tax expenditure to society should rest with those who benefit from it.

The study and review process should satisfy several criteria:

First, the cost of the tax provision. This, of course, should include lost revenue. An accurate estimate of that amount of revenue which is foregone by continuing or establishing a tax expenditure is essential to a definition of its value to the public. But there should also be an effort to assess the "opportunity" cost, or that which is lost to society by not allocating that spending potential to some other purpose. Taxpayers who do not benefit from a special tax provision are those who are paying for it. Tax preferences for one segment of society add to the tax burden being carried by all others. The cost of a tax expenditure should, therefore, be viewed in light of its cost to other taxpayers.

Second, the benefits of the preference to society. The rationale for each special preference should be identified with specific respect to what segment of the society gains from it, to what extent, for what purpose, and under what circumstances it was originally created. Each review should also determine if such a rationale applies to current circumstances.

Third, its effectiveness. The cost and benefits of each special preference should be considered in the context of its intended purposes, with an effort to ascertain the effectiveness of the provision to fulfill its original design, and to determine the value of its continued existence. In making this analysis, evaluation of the tax expenditure's consistency with clear and current national social and economic objectives should be included.

Fourth, its positive or negative relation to, or effect upon, other or similar programs. If it is established that the cost and rationale sufficiently warrant Government action, a comprehensive effort should then be made to determine the appropriate means. The objectives of the tax expenditure might best be accomplished through alternative fiscal mechanisms. For some of these programs, the tax system offers the best means. Others may be better suited to other, and in particular, direct forms of Federal assistance. It should be the job of those reviewing each tax expenditure to identify the better approach. Also, those reviewing each tax expenditure should identify similar Federal expenditure programs to assess whether it may duplicate, or counteract those efforts in that particular policy area.

Fifth, its impact on the income tax structure as a whole. Some expenditures were created to correct inequities in the Federal tax system. But others, primarily to subsidize disadvantaged segments of society or to give incentives, were created without regard to their impact on the progressiveness or fairness of the system. Those charged with examining tax expenditures should ascertain if an inordinate share of benefit is being gained by business or individuals via the provision. This should be an important part of the review process.

The study required of the Congressional Budget Office should include sufficient data, with analysis, to support a comprehensive and clearly formulated assessment of each of these criteria. It should also supply a specific recommendation for its repeal or revision. Testimony from public or private sources can supplement the information contained in the study.

The committees responsible for conducting review are the Finance Committee in the Senate, and the House Ways and Means Committee. It should be emphasized, however, that other committees in both Houses would be urged to participate. These would not only include the various committees which would have legislative jurisdiction over similar expenditure programs funded by budget authority, but also the Budget Committees in both Houses to assist in providing a comprehensive budgetary view of tax expenditures.

The two principal committees in each House are charged with the responsibility of reporting to the House and the Senate respectively their findings, with recommendations. Only then may a bill be considered to reestablish the tax provision. If no review is conducted, the provision automatically expires.

Mr. President, this bill offers a simple, but no-nonsense approach to periodic review of tax expenditures. Your tax benefit must be justified, or it may be lost. This is not an attempt to eliminate any particular tax provision, nor is it a substitute for the long-awaited comprehensive tax reform which the American people have been promised year after year. The bill does offer a defined process by which to evaluate specific provisions of our tax system, and sets out fundamental criteria to correct inequities and misallocation of Federal revenue in each one. As such, it offers a tool to reduce unjustified expenditures of tax revenue, and to eliminate inequities of the Federal income tax structure.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3588

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 "Tax Expenditure Review Act of 1976".

FINDINGS

SEC. 2. The Congress finds that the Federal income tax laws include various special provisions which depart from the fundamental purpose of raising revenue and which are not subject to systematic Congressional review. The Congress further finds that, once enacted, such special tax provisions are not subject to automatic termination, but remain as permanent features of the Federal income tax structure without regard to the special circumstances that may have led to their enactment. The Congress believes it necessary to treat such provisions as expenditures subject to periodic review for the purpose of establishing sound fiscal policy. The Congress further believes that the establishment of a system for the automatic termination of each such special tax provision, with provision for detailed and comprehensive review of the justification for its continued existence, is desirable and in the public interest.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability.

(2) The term "tax expenditure provision" means a chapter, subchapter, part, section, or other provision of the Internal Revenue Code of 1954 or any other Federal income tax law the application of which results in a tax expenditure.

TERMINATION OF CERTAIN TAX EXPENDITURE PROVISIONS

SEC. 4. Subject to the provisions of section 5, the following tax expenditure provisions shall cease to apply with respect to taxable years beginning after December 31, 1978:

(1) Section 79 (group-term life insurance purchased for employees).

(2) Section 116 (exclusion of certain dividends.)

(3) Section 119 (exclusion of meals and lodgings provided for employees).

(4) Section 167(m) (class life system for depreciation).

(5) Section 631 (capital gain treatment for timber, coal, and domestic iron ore).

(6) Section 1348 (maximum rate of tax on earned income).

REVIEW BY COMMITTEES ON WAYS AND MEANS AND FINANCE

SEC. 5. (a) The Committee on Ways and Means and the Committee on Finance shall conduct a comprehensive review of those tax expenditure provisions list in section 4. Such review shall include, with respect to each such tax expenditure provision, and examination of—

(1) its cost, benefit, and effectiveness;

(2) its impact on, and relation to, Federal programs having the same or similar objectives which are funded by budget authority; and

(3) its impact on the Federal income tax structure.

In conducting each such review, such committees shall hold public hearings to re-

ceive testimony from representatives of the public as well as of the Government. Each committee of the House of Representatives or the Senate which would have legislative jurisdiction over any such tax expenditure provision if it were a program funded by budget authority may submit its views to the Committee on Ways and Means or the Committee on Finance, as the case may be.

(b) On or before March 31, 1978, or such earlier date as the Committee on Ways and Means or the Committee on Finance may prescribe, the Director of the Congressional Budget Office shall submit to such committees a report on each of the tax expenditure provisions listed in section 4. In addition to the matters described in subsection (a), such report shall include, with respect to each such tax expenditure provision, an examination of such provision within the context of Congressional policy relating to outlays for programs within budget functional and subfunctional categories.

(c) On or before June 30, 1978, the Committee on Ways and Means and the Committee on Finance shall submit to their respective Houses a report, with respect to each tax expenditure provision listed in section 4, setting forth the results of the review of such provision under subsection (a) and its recommendations with respect thereto, if such recommendations are for the continuation or reestablishment of such provision.

SUBSEQUENT REVIEWS OF TAX EXPENDITURE PROVISIONS

SEC. 6. (a) Prior to the termination of the applicability of any tax expenditure provision to a taxable year beginning on or after January 1, 1979 (whether or not such provision is listed in section 4), the Committee on Ways and Means and the Committee on Finance shall conduct a comprehensive review of such provision in the same manner as a review conducted under section 5.

(b) The Committee on Ways and Means and the Committee on Finance shall submit to their respective Houses a report setting forth the results of each review of a tax expenditure provision conducted under subsection (a), and its recommendation with respect thereto, if such recommendations are for the continuation or reestablishment of such provision, and not less than six months before the termination of the applicability of such provision.

CONSIDERATION OF BILLS AND RESOLUTIONS ESTABLISHING OR CONTINUING TAX EXPENDITURE PROVISIONS

SEC. 7. (a) It shall not be in order in either the House of Representatives or the Senate—

(1) to consider any bill, resolution, or amendment which establishes a new tax expenditure provision or continues an existing tax expenditure provision (whether or not in a modified form) if, under the terms of such bill, resolution or amendment, such provision is to be in effect for more than four taxable years; or

(2) to consider any bill, resolution, or amendment which establishes or continues more than one tax expenditure provision, or to consider any amendment which establishes or continues a tax expenditure provision to a bill or resolution which establishes or continues a tax expenditure provision.

(b) It shall not be in order in either the House of Representatives or the Senate to consider any bill, resolution, or amendment which continues (whether or not in a modified form)—

(1) any tax expenditure provision listed in section 4 unless the Committee on Ways and Means or the Committee on Finance, as the case may be, has submitted to its House a report on the review of such provision in compliance with section 5; or

(2) any tax expenditure provision subject to a review under section 6 unless the Committee on Ways and Means or the Committee on Finance, as the case may be, has submitted to its House a report on the review of such provision in compliance with such section.

EXERCISE OF RULEMAKING POWER

SEC. 8. The provision of this section and sections 5 (other than subsection (b) thereof), 6, and 7 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively and as such they shall be considered as part of the rules of each House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

ADDITIONAL COSPONSORS

S. 1878

At the request of Mr. TOWER, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 1878, the navigable waters bill.

S. 2387

At the request of Mr. BAYH, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 2387, to restore and promote competition in the petroleum industry.

S. 3441

At the request of Mr. HUGH SCOTT, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 3441, the congressional cemetery bill.

AMENDMENT NO. 1829

At the request of Mr. INOUYE, the Senator from Alaska (Mr. STEVENS) and the Senator from Hawaii (Mr. FONG) were added as cosponsors of amendment No. 1829, intended to be proposed to H.R. 10612, the tax reform bill.

AMENDMENTS NOS. 1837, 1838, AND 1839

At the request of Mr. TOWER, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of amendments 1837, 1838, and 1839, intended to be proposed to the bill (S. 3422) to regulate commerce and assure increased supplies of natural gas.

AMENDMENT NO. 1839

At the request of Mr. TOWER, the Senator from Florida (Mr. STONE) was added as a cosponsor of amendment No. 1839, supra.

SENATE RESOLUTIONS NOS. 469 AND 470—SUBMISSION OF RESOLUTIONS OF DISAPPROVAL OF ENERGY ACTIONS NOS. 3 AND 4

(Referred to the Committee on Interior and Insular Affairs.)

Mr. JACKSON submitted the following resolutions:

S. RES. 469

Resolved, That the Senate does not favor the energy action numbered 3 transmitted to the Congress on June 15, 1976.

S. RES. 470

Resolved, That the Senate does not favor the energy action numbered 4 transmitted to the Congress on June 15, 1976.

Mr. JACKSON. Mr. President, today I am submitting resolutions expressing the Senate's disapproval of energy actions Nos. 3 and 4, the Federal Energy Administration proposals to remove price and allocation controls from home heating oil, diesel fuel and other middle distillate refined petroleum products. The full texts of both FEA proposals appear in the CONGRESSIONAL RECORD of June 15, 1976 at pages 18376–18381.

The provisions of sections 455 and 551 of the Energy Policy and Conservation Act (Public Law 94–163) specify the congressional review procedures for the submission and consideration of proposals by the administration to amend the regulation affecting domestic crude oil and proposed "energy actions" would become effective unless disapproved by either House of Congress within 15 legislative days. In the case of these proposals to decontrol heating oil, diesel fuel and other middle distillates, the 15-day period would end on midnight June 30, 1976.

With respect to the middle distillate refined petroleum products, section 455 of the EPCA requires that a separate decontrol proposal be submitted for the No. 2 oils: No. 2 home heating oil and No. 2–D diesel fuel. FEA has submitted energy action No. 3 to remove price and allocation controls from this refined product category. Energy action No. 4 applies to other refined petroleum products in the middle distillate category; kerosene, No. 1 fuel oil, No. 1–D diesel fuel. Neither proposal relates to aviation fuel.

I anticipate that the resolutions with respect to energy actions Nos. 3 and 4 will be referred to the Committee on Interior and Insular Affairs. The committee has scheduled hearings on middle distillate decontrol for Monday, June 21, to receive the views of the FEA and selected private witnesses. The committee could at any time thereafter favorably report either resolution. In any event, if the committee has not reported the resolutions at the end of 5 days after referrals, section 551(f)(4) of the Energy Policy and Conservation Act provides that any Member of the Senate may move to discharge the committee from further consideration of either resolution. Such a discharge motion would be highly privileged and the debate on the motion would be limited to 1 hour.

These procedures assure that the Senate will have an opportunity to vote on a resolution of disapproval with respect to an energy action. I am introducing these resolutions to preserve this opportunity in the case of the middle distillate decontrol proposals. Home heating oil price and availability affect a great many homeowners who have almost no opportunity to switch to an alternate fuel. I feel strongly that the Senate should examine these FEA proposals very closely between now and June 30. I hope the record established in the Senate Interior Committee will assist in clarifying the issues. If disapproval of these decontrol proposals is warranted, my resolutions will provide an opportunity for the Senate to express itself.

SENATE RESOLUTION 471—ORIGINAL RESOLUTION REPORTED RELATING TO THE CONSIDERATION OF H.R. 12545

(Referred to the Committee on the Budget.)

Mr. GRAVEL, from the Committee on Public Works, reported the following original resolution:

S. RES. 471

Resolved, That the prohibition of section 402(a) of the Congressional Budget and Impoundment Control Act of 1974 as to the consideration by the Senate of legislation authorizing the enactment of new budget authority for a fiscal year is such legislation is not reported to the Senate on or before May 15 preceding the beginning of such fiscal year be waived with respect to the River Basin Monetary Authorization Act of 1976 (H.R. 12545) reported by the Committee on Public Works on June 16, 1976. The waiver is necessary for the Senate to complete action on legislation which provides monetary authorization limitations for thirteen river basins through fiscal year 1977. The authorizations contained in this bill are those recommended by the administration and approved by the House of Representatives on May 17, 1976.

The authorization of funds in H.R. 12545 are within the levels for water resource development by the Corps of Engineers reported to the Senate Budget Committee by the Public Works Committee in the March 15 report. This reported bill provides for continuity in the river basin development plans previously authorized by Congress.

AMENDMENTS SUBMITTED FOR PRINTING

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 1878

(Ordered to be printed and to lie on the table.)

Mr. TAFT submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 1879

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 1880

(Ordered to be printed and to lie on the table.)

Mr. BEALL. Mr. President, today I am submitting an amendment to the Tax Reform Act, H.R. 10612, which will equalize the treatment of all those who have retired on disability from the Federal Government, both civilian and military.

The amendment is based on an inconsistency within the Tax Reform Act which I feel is unfair to the civilian employees of our Government. Although the members of the armed services will continue to benefit from the tax exemption of sick pay and disability retirement, civil servants and postal employees will not. It is time that the Federal Government recognize that it is one employer, and should treat all of its employees equally, whether they be in the military sector or the civilian one.

Section 505 of the Tax Reform Act suggests a change in the current tax exemptions for disabled retirees, including those who have already retired. These individuals retired under one system, and it seems unfair to change this system by making these revisions retroactive. Therefore, I have introduced a grandfather clause for those currently receiving Federal disability retirement benefits, similar to the provision enacted in the House for military disabled retirees.

I strongly support the need for tax reform. However, it need not be accomplished by placing undue hardship on our Nation's disabled retirees.

I ask unanimous consent that my amendment be printed in the RECORD.

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

AMENDMENT NO. 1880

on older Americans. All that was neces- and insert the following: "or was totally or partially disabled for purposes of chapter 81 of title 5, United States Code,".

On page 210, line 8, strike out "before January 1, 1976," and insert the following: "on or before the date of enactment of this Act,".

On page 210, line 11, strike out "January 1, 1976," and insert the following: "on or before the date of enactment of this Act,".

On page 210, line 13, strike out the comma and insert the following: "or was totally or partially disabled for purposes of chapter 81 of title 5, United States Code,".

AMENDMENT NO. 1881

(Ordered to be printed and to lie on the table.)

Mr. BROCK submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 1882

Ordered to be printed and to lie on the table.)

Mr. HASKELL. Mr. President, the tax bill reported by the Senate Finance Committee has generated considerable opposition. Not nearly enough, however, for it is a very bad bill.

The committee began with the House-passed tax bill which contained at least a few halting steps toward honest, structural tax reform. It ended up with a 1,500-page creation which opens new tax loopholes while leaving all the worst existing ones untouched. In between, the committee engaged in some remarkable gymnastics to hurdle the budget resolution's requirement that we raise $2 billion by cutting tax expenditures. Despite the resulting fiscal illusion, the committee bill does not meet the resolution's requirement.

Along the way, the committee raided the paychecks of working Americans with an early termination of the $35 individual tax credit. Further, it delayed simplification and extension of the retirement income credit so urgently needed to ease the inflationary burden on older Americans. All that was necessary to finance new loopholes and to cut the taxes of the richest 1 percent of Americans—this by reducing from 70 percent to 50 percent the tax rates on unearned investment income.

Five of us who sit on the committee, along with several other Senators, will propose an amendment to the committee bill. None of us represents this package as "tax reform." It is merely an attempt to hold the line, to do no harm at least and a little good, while attempting to eliminate the worst features of the committee bill.

Some of us believe that ours is only the minimum acceptable revision of the committee bill and that Congress should go considerably further and enact some real reform legislation.

Such legislation, Mr. President, is the package of amendments I now submit. These amendments would repeal five of the most flagrant of the artificial tax deductions. I propose that the revenues which result from these repeals be used to cut tax rates for small businesses and to lower social security taxes for both employers and employees.

These artificial deductions are just that—phony deductions which have absolutely no relationship to actual expenses. They are nothing less than subsidies given to and used by major businesses. They are not available to the ordinary taxpayer.

The effect of these artificial deductions has been to cut the tax bills of individuals in the top brackets from the 70 percent statutory rate to 32 percent and the corporate rate from 48 to 35 percent. These and other phony deductions have cut the corporate share of Federal revenues from 28 percent in 1956 to 13 percent this year.

Simple fairness demands that we eliminate these deductions and offer some relief to the hard-pressed wage and salary earner, to the farmer and to the small business owner who is increasingly disadvantaged by the economic concentration of giant corporations.

First to go should be the investment tax credit. Through this device, the Treasury pays for 10 percent of all equipment purchased by business. Recent studies by research economists at the Library of Congress emphasize the ineffectiveness of the investment tax credit as a marginal incentive. Simply stated, businesses which plan to invest will do so anyway, and taxpayers will pick up 10 percent of the tab—a tab which runs at least $8 billion per year and is growing.

There is one vitally important exception to this provision. Mr. President, I would retain the investment tax credit for small businesses—those with $2 million or less in assets—and for family farms, defined as those farmed by the owner or providing at least 65 percent of the owner's income.

According to the Treasury Department, 70.8 percent of the benefits of the investment tax credit in 1972 went to two-tenths of 1 percent of the Nation's corporations. These all had assets of $100 million or more. The vast majority of the Nation's businesses, those with assets of under $2.5 million, collected only 13.2 percent of the subsidy's benefits. We know, too, that the investment tax credit tends to favor established businesses over new or smaller businesses which have lower initial earnings and no established credit.

There is ample justification, Mr. President, for allowing small businesses and family farmers to continue to use the investment tax credit. A generation of tax policy in this country has worked to the

disadvantage of the small business and to the great advantage of large firms. Yet it is the small business sector which is most competitive and which provides most of the Nation's jobs. Help for that sector fosters both employment and genuine competition.

The family farmer has taken a beating, too, in recent years. Farm prices have not begun to keep pace with inflation which has hit the so-called farm inputs—every thing from fertilizer to tractors. I believe it is important that we do everything possible to help the family farmer who not only provides this Nation's food and fiber but also accounts for a major share of U.S. exports.

My amendment would also repeal two forms of rapid depreciation: ADR, or asset depreciation range, and accelerated depreciation. ADR is so complicated it is used only by the top 1.5 percent of U.S. corporations. But they use it with considerable effectiveness. ADR cost the Treasury $1.6 billion in artificial deductions—over and above the justifiable deductions for true depreciation over the useful life of the asset. Accelerated depreciation costs the Treasury another $1.3 billion a year.

These two provisions are the source of many tax shelters which are far more than just preferences to help business people cut taxes. Shelters are paper-loss investments which help high-income people avoid taxation on ordinary income from other sources.

I also propose to repeal or limit four kinds of natural resource preferences. These provisions allow natural resource industries to exclude a large portion of their income from taxation—at a cost to the Treasury of $3 billion per year.

Finally, Mr. President, I propose to repeal the so-called DISC or domestic international sales corporation provision. Even in the modified form several of us have proposed in our amendment—and which I will strongly support over the committee provisions—DISC would give a subsidy to people doing business overseas. In reality, it is a $1.4 billion per year subsidy which U.S. taxpayers give to foreign consumers through lower prices. Analyses of DISC, done by both the Treasury Department and the Library of Congress, leave little doubt about the ineffectiveness of the subsidy. It has not substantially increased exports, as it was designed to do.

Furthermore, there is no indication that exporters need help in the first place. Their profits on exports are already twice that of profits on the same products sold domestically.

The repeal of these five provisions, Mr. President, would restore some fairness to the tax system, some confidence to American taxpayers and $15.3 billion to the Treasury.

My amendment provides that we use the bulk of this revenue to ease the burden of social security taxes, the tax which falls hardest on the lower and middle income wage earner. This tax, deducted in a flat amount from every paycheck, regardless of size, is regressive, not progressive. It is the single biggest tax many Americans pay.

By allocating $13.3 billion of this saving to the social security fund, we can save the average worker $115 per year. It is important to note that employers will also save an equal amount for every $12,000 per year employee. To that extent, it will make it cheaper for businesses to hire people than to buy machines.

The balance of the revenue raised, $2 billion, should go to the direct tax relief of small business which, as I mentioned, is hard pressed in many ways. First, it does not have access to capital markets as does big business, relying instead on retained earnings. Second, it does not have the simple advantage of size and therefore it can be squeezed out by larger firms. Most important of all, it is small business which is truly competitive. That should be encouraged.

Small businesses have been left with the worst of all possible worlds by the U.S. tax system. As we have seen repeatedly, most business subsidies are aimed primarily at large firms. But no distinction is made between small firms and large for purposes of taxation.

I believe we can correct that simply and equitably through the amendments I introduce today to extend the corporate surtax exemption from $50,000 to $100,000. That would result in a tax rate for small corporations of 20 percent on the first $25,000 of taxable income, 22 percent on the second $25,000 and 25 percent on the second $50,000. Under present rates, a small business would pay $34,500 on $100,000 of taxable income. Under my plan, it would pay $23,000—a savings of $11,500.

My amendment would phase out the increased surtax exemption beginning at $250,000 of taxable income. Firms with taxable incomes of over $500,000 per year would pay the full 48 percent statutory corporate rate.

I believe my amendments offer several advantages, Mr. President. They will eliminate five of the most outrageous and least justifiable tax subsidies in the code. They will target direct and immediate relief to low- and middle-income wage earners and their employers through reduced social security withholding rates. And they will give substantial tax cuts to small businesses.

The tax savings, of course, are important and I do not mean to minimize them. But most taxpayers I have talked to about tax reform do not talk about how much they will save; they talk about fairness. And they talk about it with some bitterness because they know it is absent from the tax code today. It is not so much the tax burden to which they object as the fact that the burden falls unevenly and that some privileged taxpayers escape it altogether.

The amendments I submit today will get us on the road to changing both our tax system and the way American taxpayers perceive that system.

AMENDMENTS NOS. 1883 AND 1884

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted two amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 1886

(Ordered to be printed and to lie on the table.)

LIMITING TAXPAYER LIABILITY FOR UNDERPAYMENT OF TAXES DUE TO INTERNAL REVENUE SERVICE ERROR

Mr. STONE. Mr. President, on May 6, 1975, I introduced S. 1652, a bill which would protect taxpayers from interest penalties on income tax deficiencies when the taxpayer's income tax return was prepared by the Internal Revenue Service. This legislation would prevent taxpayers from being held responsible for mistakes made by taxpayer service representatives of the Internal Revenue Service in preparing taxpayer returns.

Fourteen Senators have joined as cosponsors of S. 1652, and today I am offering this proposal in the form of an amendment to H.R. 10612. The need for this amendment is illustrated by a survey made by the House Ways and Means Subcommittee indicating that incorrect advice was given by Internal Revenue Service agents at least 25 percent of the time in response to inquiries about specific tax matters. I understand that Commissioner of Internal Revenue Service Donald Alexander is concerned about this problem and is working to improve the situation.

Mr. President, I submit this amendment not to discourage the Internal Revenue Service from continuing to provide the excellent and most helpful assistance it has been providing to millions of taxpayers every year. Rather, I submit this amendment to make certain that mistakes made by employees of the Government do not have the effect of penalizing taxpayers who want to take advantage of the taxpayer assistance program of Internal Revenue Service. Indeed, I believe the adoption of this amendment will result in greater use of the Internal Revenue Service's taxpayer assistance program because of its assurance that no taxpayer will suffer from good-faith reliance on Internal Revenue Service advice.

It is important to understand that this amendment relieves the taxpayer of interest liability for unpaid taxes only to the extent that the taxpayer's return is actually prepared by an Internal Revenue Service representative and the taxpayer does not fail to provide information concerning his tax situation to Internal Revenue employees in the preparation of the tax return. The amendment would not relieve the taxpayer of his obligation to pay any additional taxes he might owe to the Federal Government.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD.

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

AMENDMENT NO. 1886

On page 790, after line 9, insert the following:

SEC. 1212. Deferral of interest on errors when return is prepared for taxpayer by the Internal Revenue Service.

(a) IN GENERAL.—Section 6601(c) (relating to suspension of interest in certain income, estate, gift, and chapter 42 or 43 tax cases) is amended by adding at the end thereof the following new sentence: "In the case of an income tax deficiency, if the return was prepared by a taxpayer service representative of the Internal Revenue Service acting under the program established by the

Secretary or his delegate to provide assistance to taxpayers in the preparation of income tax returns, and if the deficiency did not result from a failure by the taxpayer to provide information to the taxpayer service representative who prepared his return, or from a willful misrepresentation of information by the taxpayer, interest shall not be imposed on such deficiency for any period beginning before the 30th day after the date of notice and demand by the Secretary or his delegate for payment of the deficiency.".

(b) EFFECTIVE DATE.—The amendment made by this section applies to returns filed for taxable years beginning after the date of enactment of this Act.

PUBLIC WORKS APPROPRIATIONS, 1977—H.R. 14236

AMENDMENT NO. 1885

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to the bill (H.R. 14236) making appropriations for public works for water and power development and energy research, including the Corps of Engineers—Civil, the Bureau of Reclamation, power agencies of the Department of the Interior, the Appalachian regional development programs, the Federal Power Commission, the Tennessee Valley Authority, the Nuclear Regulatory Commission, the Energy Research and Development Administration, and related independent agencies and commissions for the fiscal year ending September 30, 1977, and for other purposes.

ADDITIONAL STATEMENTS

SCHWEPPE ANALYSIS OF PANAMA CANAL SOVEREIGNTY

Mr. THURMOND. Mr. President, starting in 1967 and continuing through later years, I have made a series of addresses in and out of the Congress covering the significant features of U.S. Isthmian canal policy. These addresses deal primarily with the questions involved in the major increase of capacity of operational improvement of the existing Panama Canal and the necessity for retaining our undiluted sovereign control over its indispensable protective framework—the Canal Zone.

Various national and local polls conclusively show that the people of the United States are overwhelmingly opposed to the projected surrender of U.S. sovereign control over the zone. While Secretary Kissinger and those who support him continue to deny U.S. sovereignty, many of our citizens naturally oppose the expenditure of large sums required for major canal modernization.

Though the treaty provisions under which the Canal Zone was granted in perpetuity to the United States clearly establish that the Canal Zone is a territorial possession of the United States, a calculated campaign of manipulation by Secretary Kissinger through the State Department aims to bring about the surrender of the zone to Panama, a small, weak country allied with the Moscow-Havana Axis. A main feature in this campaign of distortion is the effort to convince the people of the United States that the Canal Zone is not U.S. territory, but Panamanian, and to create a sense of guilt for having deprived Panama of its "greatest natural resource"—the Panama Canal.

The legal position of the United States as sovereign of the Canal Zone is as unassailable as it is on Alaska and the Louisiana Purchase.

In a letter to me on May 25, 1976, Alfred J. Schweppe, of Seattle, Wash., one of our Nation's outstanding lawyers, examines the question of sovereignty over the Canal Zone, clears away some of the contrived confusion, and reaches the conclusion that the United States has "complete dominion over the Canal Zone by the 1903 treaty confirmed in 1939."

Mr. President, Mr. Schweppe's discussion of the sovereignty question is sound and should be of great value to all Members of the Congress, as well as others, especially Secretary Kissinger, in dispelling the fog of confusion fallacies that has featured so much of current rhetoric. I ask unanimous consent for it to be printed in the RECORD, together with "Kissinger Pledges New Era for Canal," at the conclusion of my remarks.

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

SCHWEPPE, DOOLITTLE, KRUG, TAUSEND, BEEZER, & BEIERLE,
Seattle, Wash., May 25, 1976.

Hon. STROM THURMOND,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I note with satisfaction your defense of our Panama Canal ownership (New York Times Magazine, May 16, 1976, pp. 18, et seq.)

Reasonably versed in international law, including the law of treaties, as well as the law of property, I have considered the Isthmian Canal Convention of November 18, 1903, as officially published in Volume 33, Part 2, U.S. Statutes at Large, pp. 2234–2241.

In the preamble (p. 2234) it is recited that in furtherance of the object of constructing a ship canal across the Isthmus: . . . The President of the United States is authorized to acquire within a reasonable time the necessary territory of the Republic of Columbia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention . . .

By Article I, "the United States guarantees and will maintain the independence of the Republic of Panama."

In Article II, "the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water . . ." ten miles wide.

Then comes Article III: The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such soverign rights, power or authority.

The preamble merely establishes the preliminary fact of existing sovereignty in the Republic of Panama. Then in Article III, "the Republic of Panama grants to the United States all the rights, powers and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights and authority."

Simply stated, Panama having existing sovereignty over the area, by the treaty relinquishes in perpetuity to the United States "the use, occupation and control of a zone of land and land under water . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights."

Persons in the State Department, including Ellsworth Bunker, who is at present conducting the Panama Canal negotiations for the United States, seek to make a hairline distinction between "sovereignty of such territory being actually vested in the Republic of Panama", and the grant to the United States "of all rights, powers and authority within the zone mentioned . . . which the United States would possess and exercise if it were the sovereign of the territory within which said land and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power and authority."

The distinction sought to be made is illusory. The State Department says that we have acquired only "rights" not title. In fact and in law Panama granted all of the rights there are to make full legal title. The exclusive "use, occupation and control" of the zone in perpetuity constitutes legal title. Legal title is a right to exclusive possession in perpetuity good against all the world. Sovereignty is the supreme political power or dominion over an area. Panamanian sovereignty in the area was voluntarily suspended permanently, and legal title (the permanent right to exclusive possession) granted to the United States.

The 1903 treaty appropriately protected private ownerships. Such a treaty is equivalent to a deed in fee simple by one country to another to all public property, saving private rights which then became subject to the jurisdiction of the new owner.

The acquisition of Alaska, for example, was a cession or ceding of territory and dominion to all public property, saving private property rights. 15 U.S. Statutes at Large, p. 539. It was a grant of absolute title (exclusive possession in perpetuity), as in the case of Panama.

Panama had initial sovereignty (exclusive political control and dominion) and also the exclusive right of possession, but it suspended sovereignty in the zone in perpetuity and granted exclusive possession in perpetuity to the United States.

For this suspension of sovereignty in perpetuity, and the grant "in perpetuity" of "the use, occupation and control" of the zone, the United States in Article XIV agreed to pay the Republic of Panama the sum of $10,000,000.00 in gold and an annual payment of $250,000.00 in gold for the life of the convention, beginning nine years from date, presumably on completion of the Canal.

This annual payment has from time to time been negotiated upwards.

Some changes not affecting the sovereignty provisions of the 1903 treaty were negotiated in 1936 and ratified by the Senate in 1939. 53 U.S. Statutes at Large, Part 3, pp. 1807–1826. The principal changes were the superseding of section I, guaranteeing independence (p. 1608) and giving up the right of the United States to keep order in Panama, if the Republic of Panama could not, in the judgment of the United States, maintain such order. This 1939 treaty was intended to remove any possible stigma of the original 1903 treaty that Panama was a dependent and second-class nation and to remove any concept of guardian and ward. All right of intervention and protection outside the zone was entirely surrendered by the United States. In addition, the United States (p. 1818) granted Panama an official corridor over

the zone between parts of Panama separated by the zone.

That "General Treaty of Friendship and Cooperation of 1936", negotiated by Cordell Hull and signed by President Franklin D. Roosevelt, is overlooked in the recent discussions.

In Article I (p. 1808), the United States of America and the Republic of Panama declared: . . . that the provisions of the Convention of October 18, 1903, contemplate the use, occupation and control by the United States of America of the Canal Zone and the additional lands and waters *under the jurisdiction of the United States* for the purposes of the efficient maintenance, operation, sanitation and protection of the Canal and its auxiliary works. (Italics supplied.)

Article IV (p. 1814) provides: In view of the fact that the Canal Zone divides *the territory under the jurisdiction of the Republic of Panama,* the United States of America agrees that, subject to such police regulations as the circumstances require, Panamanian citizens who may be occasionally deported from the Canal Zone shall be assured transit through said zone, in order to pass from one part to another of the territory *under the jurisdiction of the Republic of Panama.* [Italics supplied.]

Article VIII (p. 1818) provides: In order that the City of Colon may enjoy direct means of land communication *under Panamanian jurisdiction* with other territory under *the jurisdiction of the Republic of Panama,* the United States of America hereby *transfers* to the Republic of Panama *jurisdiction over a corridor,* the exact limits of which shall be agreed upon by the two governments pursuant to the following description.

[Then follows the description of the corridor 25 to 200 feet wide.]

The United States of America shall enjoy at all times the right to unimpeded access across said corridor at any point, and of travel along said corridor, subject to such traffic regulations as may be established by the Government of the Republic of Panama; . . . (p. 1820).

. . . The Government of the United States will extinguish any private titles existing or which may exist in and to the land included in the above described corridor. (p. 1824)

Article X (p. 1825) provides in part: . . . Any measures for safeguarding such interests, which it shall appear essential for one government to take, and which may affect the *jurisdiction* of the other government, will be the subject of consultation between the two governments. [Italics supplied.]

Article XI (p. 1825) provides: The provisions of this Treaty shall not affect the rights and obligations of either of the two High Contracting Parties under the treaties now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations, but without prejudice to the full force and effect of any provisions of this Treaty which constitute addition to, modification or abrogation of, or substitution for the provisions of previous treaties.

Please note throughout the quoted paragraphs the word "jurisdiction" and the careful delineation of mutually exclusive complete jurisdiction.

This 1936 treaty reemphasizes the complete legal and political dominion and ownership of the United States over the zone. The corridor granted a legal easement over property of the United States constituting the zone.

Since then the reported negotiations have centered on Panamanian participation in control of the zone and operation of the Canal and reportedly relinquishing the zone altogether at some future date.

In sum, the United States initially acquired and still has complete dominion over the Canal Zone by the 1903 treaty with complete exclusive "jurisdiction" confirmed in 1939 and has fully paid for this perpetual right of "use, occupancy and control" to the exclusion of Panamanian "use, occupancy and control"—the legal equivalent of a deed in fee simple.

While an actual instrument of cession or conveyance was not used, the legal language is the equivalent and gives the United States as good a title as it has to Alaska or Louisiana. The language chosen was simply a diplomatic alternative in expression.

Panama was a province of the Republic of Colombia seeking independence by revolt when President Theodore Roosevelt recognized its independence and then kept Colombian troops at a distance with a show of gunboats and Marines. But Colombia in 1922 granted Panama full recognition and settled the boundary between them. Then in 1923 the United States paid Colombia, and Colombia accepted, $25,000,000.00 in full settlement of Colombian claims, including claims arising in 1903.

There are some persons, swinging wildly, who say we "stole" the Canal and should give it back. If it was stolen from anybody, it was stolen from Colombia, and should hence be given back to Colombia. But Colombia has been satisfied financially by the 1933 settlement. Indeed, nearby Colombia itself has reaped great benefits from the Canal, as has the entire world.

The Canal was not stolen from Panama. Panama got nothing but benefits. It got independence from Colombia and eagerly negotiated a treaty that over the years has brought almost incalculable advantages to Panama. The situation in no way partakes of colonialism.

Even if one accepted the notion of the State Department about the 1903 treaty, that we merely acquired "rights" (ignoring that ownership of property is merely an exclusive right of possession of perpetuity) for the $10,000,000.00 paid in 1903, then why, at the proper time, if it ever comes, do we not sell back those rights to Panama at their then current value, including all of the billions of dollars invested in the canal, appropriately depreciated.

This was a commercial transaction (money for exclusive possession of and jurisdiction over the Canal Zone in perpetuity) made in 1903 and reconfirmed in 1939.

Why even tentatively consider giving away these valuable properties of the American taxpayer?

No doubt Panama's present leadership wants the zone for nothing, as if the United States owed Panama for the Zone for nothing. As a friendly gesture Presidents Eisenhower and Kennedy agreed that the United States would fly the flag of Panama beside the American flag within the Zone, but this does not satisfy the current Panamanian government. In my view, when the rights of the United States are properly analyzed, we owe Panama nothing.

Until the Canal completely ceases to have utility in world shipping, it should not be turned over to Panamanian control. One need look only at Egypt's discriminatory management of the Suez Canal after the United States in concert with Soviet Russia prevented England and France from redressing the illegal seizure.

Professor Samuel Eliot Morrison in "The Oxford History of the American People" says that "Panama leased the Canal Zone 'in perpetuity' to the United States." It is more than a lease; it is a legal title—the exclusive right to possession in perpetuity. That should be our point of departure in any negotiations.

For your convenience I attach copies of the provisions of the Isthmian Canal Convention of 1903 which are applicable to the current debate.

Very truly yours,

ALFRED J. SCHWEPPE.

ISTHMIAN CANAL CONVENTION

Convention between the United States and the Republic of Panama for the construction of a ship canal to connect the waters of the Atlantic and Pacific Oceans. Signed at Washington, November 18, 1903; ratification advised by the Senate, February 23, 1904; ratified by the President, February 25, 1904; ratified by Panama, December 2, 1903; ratifications exchanged at Washington, February 26, 1904; proclaimed, February 26, 1904.

By the President of the United States of America, a proclamation—

Whereas a Convention between the United States of America and the Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, was concluded and signed by their respective Plenipotentiaries at Washington, on the eighteenth day of November, one thousand nine hundred and three, the original of which Convention, being in the English language, is word for word as follows: "Isthmian Canal Convention."

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plentipotentiaries,—

The President of the United States of America, John Hay, Secretary of State, and

The Government of the Republic of Panama, Phillipe Bunau-Varilla, Envoy Extraordinary and Minister Plentipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone

above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water on water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall

* * * * *

ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord Nineteen hundred and three.

JOHN HAY
P. BUNAU-VARILLA.

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the city of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States the one hundred and twenty eighth.

THEODORE ROOSEVELT.

By the President: JOHN HAY, Secretary of State.

[From the Washington Post, June 8, 1976]

KISSINGER PLEDGES NEW ERA FOR CANAL

SANTIAGO.—Secretary of State Henry A. Kissinger has reported "significant progress" in the negotiations for a new Panama Canal treaty and said the pact will give "full regard to the aspirations of the Panamanian people."

Kissinger told the general assembly of the Organization of American States yesterday that both the United States and Panama seek a treaty that will reflect "a new era of cooperation in the Americas."

He said the negotiators still have not reached agreement on two major points: the duration of the new treaty and the area that U.S. military bases will occupy in the Canal Zone.

The present canal treaty, signed in 1903, gives the United States nearly complete control in perpetuity over the canal and the Canal Zone.

Panamanian governments hope to reach agreement soon on the new treaty. The statement said the negotiations, which began 12 years ago, have been carried out in a spirit of "reciprocal good will."

Republican presidential hopeful Ronald Reagan's opposition to concessions to Panama raised the prospect that the canal would be an issue at the OAS meeting. But the joint declaration headed this off, and the 23 foreign ministers agreed to a resolution saying the statement was a "positive contribution" to hemispheric cooperation.

Kissinger also touched on economic issues in his speech yesterday, proposing a "regional consultative mechanism" to help the American nations deal with fluctuations in commodity prices.

He said this new agency could function within the OAS and could oversee foreign investments in the region to insure that there was no infringement on the sovereignty of host countries.

"Our prospects of working together are brighter than ever before, more so in this hemisphere than in any other region of the world," said Kissinger.

He told the ministers President Ford wants to broaden tariff preferences for U.S. imports from Latin America and will urge Congress to restore most-favored-nation status to Venezuela and Ecuador. The two nations were penalized along with the other members of the Organization of Petroleum Exporting Countries because of OPEC's 1973 oil embargo although neither participated.

Kissinger was flying today to Mexico, the last stop on his four-nation Latin-American tour. During a three-day visit he will meet with President Luis Echeverria, Foreign Minister Alfonso Garcia Robles and Jose Lopez Portillo, who succeeds Echeverria Dec. 1, and will visit the Mayan ruins at Uxmal, in Yucatan, and the Caribbean resort island of Cancun.

NATIONAL BICENTENNIAL HIGHWAY SAFETY YEAR

Mr. RANDOLPH. Mr. President, this is a year for America to celebrate its past and the greatness of its accomplishments. The Bicentennial also provides us with a unique opportunity for addressing those problems which face us today and, by working together, to overcome them.

One of the problems that confronts us every day is the carnage on our highways which kills more than 45,000 Americans, injures and disables many times that number, and, at the same time, exacts a tremendous cost in property damage.

What can be done to solve this problem?

Significant steps have been made over recent years to reduce these fearsome statistics. During 1974, the first full year of the nationwide 55 mile-per-hour speed limit, of which I was principal author in the Senate, fatalities dropped by nearly 10,000. Perhaps more significant, this figure remained stable in 1975, despite the fact that more drivers and cars were on the road and substantially more overall miles were driven than in the previous year.

However, to rest on such laurels, particularly during this special year, would be dangerous and unwise. We are now facing a huge increase in highway travel in connection with the Bicentennial celebration. All over the country, people are planning trips to witness and participate in America's 200 birthday—trips that will take them across town and across the Nation. As a result, the experts project that 1976 will be the highest travel year in our history.

And that poses a serious problem. It is conceivable that, since injuries and fatalities on our roads are directly related to the amount of miles driven, we could see a significant increase this year in the highway slaughter. In fact, the death toll for this past April reflects just that.

The Senate has called attention to the need for emphasis on highway safety by its adoption yesterday of House Joint Resolution 726, calling on the President to officially proclaim the National Bicentennial Highway Safety Year.

Last November 14, I introduced this measure in the Senate as Senate Joint Resolution 147. On the same day, my colleague, Representative WILLIAM H. HARSHA of Ohio, introduced a companion measure in the House of Representatives. The House-passed version was amended in committee to provide that the National Bicentennial Highway Safety Year would officially begin "the first full month following enactment." In order to expedite approval of this vital effort, I urged the Judiciary Committee to act on the House version. I appreciate the action of that committee and its Subcommittee on Federal Charters, Holidays and Celebrations, under the leadership of Senator HRUSKA and Senator MCCLELLAN, for its positive consideration of this measure.

What we have done by passage of the resolution is lend congressional support to a program already underway—a program that has already mobilized individuals and organizations representing more than 4 million Americans in a concerted grassroots effort to save lives this year and in the years following.

Conceived and coordinated by citizens for Highway Safety, a tax-exempt, nonprofit organization, the National Bicentennial Highway Safety Year program will each month focus on a different aspect of highway safety—such as high-hazard identification and removal, children's safety, safety belt usage, alcohol—each of which promises significant life-saving potential. Organizations and agencies, both public and private, interested individuals, groups, companies and unions are sponsoring the monthly campaigns.

The National Bicentennial Highway Safety Year program provides us with the kind of focus needed to attract the attention and energies of the American people in a most worthwhile, beneficial and unified effort.

ANNOUNCEMENT OF POSITION ON VOTES

Mr. STEVENS. Mr. President, this past weekend I was in Alaska to honor commitments I made several weeks ago. Because of those obligations, I missed several rollcall votes. If I had been present this is how I would have voted:

Roll call No., subject, and position:

ANTITRUST AMENDMENTS

265, motion to compel presence of Senators, nay.

274, Chiles-R. Byrd Amendment No. U.P. 3, yea.

275, Hart Amendment No. 1701, in the nature of a substitute, yea.

276, passage of H.R. 8532, yea.

ITALY

277, Senate Vote on H. Con. Res. 651, yea.

VALLEY FORGE NATIONAL PARK

278, McClure Unprinted Amendment, U.P. No. 5, nay.

NO ARMS NO HANDICAP FOR ANNISTON, ALA., GRADUATE

Mr. ALLEN. Mr. President, every summer throughout this great land, tens of thousands of young people line up in gymnasiums, stadiums, and in high school auditoriums and walk proudly across the stage to accept their high school diplomas. While this is a routine occurrence for most graduates, it was an especially rewarding moment for Miss Eve Adams, who graduated recently from Walter Wellborn High School, in Anniston, Ala. Eve was born without arms; however, for Eve, who possesses an indestructible spirit and an enviable determination, her handicap is really no handicap at all.

Eve is one of the school's few graduates with a job awaiting her. The 18-year-old business student has been working 3 hours a day at Anniston Army Depot and will go full time after graduation. She can type 45 words a minute, take 80 words a minute dictation and do bookkeeping with her feet.

The story of Eve's graduation and her many other accomplishments was carried in the May 27, 1976, edition of the Alabama Journal, Montgomery, Ala.

Mr. President, her story is an inspirational one and I ask unanimous consent that the article entitled "No Arms No Handicap for Anniston Graduate," be printed in the RECORD.

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

NO ARMS NO HANDICAP FOR ANNISTON GRADUATE

(By Monde Murphy)

ANNISTON, ALA.—When Eve Adams walks across the platform at Walter Wellborn High School Stadium tonight to get her diploma, she won't need hands to accept it.

Principal Howard Waldrep will place the diploma on her shoulder and Eve will walk away holding it in place with her head. She was born without arms.

Eve is one of the school's few graduates with a job awaiting her.

The 18-year-old business student has been working three hours a day at Anniston Army Depot and will go fulltime after graduation.

She can type 45 words a minute, take 80 words a minute dictation and do bookkeeping with her feet.

"You just have to keep trying for whatever you want," she said. Her goal is to "just be happy and to lead a normal life."

She started adjusting early. "She learned to hold her bottle with her feet as a baby," said her mother, Mrs. Frances Adams.

"Everything just came natural," Eve said. "Daddy taught me things as a baby, how to stand and to balance. When I was four, he taught me how to swim."

Several attempts to provide Eve with artificial limbs failed because she did not like them. "They just didn't feel natural," she said. "I could do more with my feet."

She has had no medical training or counseling to help overcome her handicap.

"When I was six years old, I read about a girl from Winfield with no arms. I went to see her and she gave me inspiration to go on," Eve said.

Her mother added: "As Eve got older, she met more people with similar handicaps and she got encouragement and was on her way."

Eve said that when she entered high school, "it was scary. I thought people in high school wouldn't have time to help me, but they did. They built special desks for every class and the students and teachers accepted me."

Waldrep said Eve has more than evened the score by helping the school.

"She's so inspirational," he said. "She has shown other students that handicaps can be overcome. But I really don't think Eve considers herself handicapped: she does everything the rest of the class does. Many times she does it better."

At home, Eve vacuums, washes dishes, embroiders, all with her feet.

Tonight, Eve graduates sixth in her class of 150.

Other than working, her summer plans include three major steps: learning to parallel park, buying a car and getting married.

MEETING OUR RURAL HOUSING NEEDS

Mr. HUMPHREY. Mr. President, the Housing and Community Development Act of 1974 (Public Law 93-383) renewed the national commitment to "a decent home in a suitable environment." For rural people this had special significance because more than half of the substandard housing in our country is in nonmetropolitan areas, while only 30 percent of the people reside there. In addition such communities have higher levels of elderly and low-income people.

For the first time, Congress established a percentage of housing resources which were to be allocated to nonmetropolitan areas. In addition, Congress provided several important programmatic changes in the Farmers Home Administration housing programs. These were enacted to enable better service to those most in need of decent housing. Most of these changes were basically designed to provide FmHA with the same tools long possessed by HUD. I believe that the most important of these programmatic additions to the authority of the FmHA was section 514 which established a rental assistance—rent supplement—program to be used in tandem with the rental programs of the Agency.

Mr. President, I take this opportunity to describe this program and its history because it is a classic study in frustration and deliberate dereliction by a Federal agency. The rental assistance program parallels a HUD program which has been successfully used since 1967 to serve over 80,000 families whose incomes are too low to meet the regular subsidized program, such as 236, 221(d)(3) and 202.

The rise in production and operating costs has required rents which in most cases could only serve moderate income people. This was true in the HUD urban programs as well as in the FmHA rural program. However, until the 1974 Housing and Community Development Act, the FmHA did not have the authority to serve lower income families through a rental assistance program.

After some 10 years, equity to rural areas finally was provided. As the House report language stated:

The higher incidence of poverty and generally lower median incomes in rural areas, coupled with the critical need for additional housing serving very low income families, provide adequate justification for this special assistance. Enactment of this important authority is long overdue. (HR 93-1114)

The enactment of a rural rent supplement program was an important step forward for rural areas and had wide support both in and out of Congress. It was with a great degree of anticipation that many people looked forward to its implementation. For many communities, a much-needed housing resource was finally available.

If I were operating the FmHA I would have welcomed this new aid as a way to serve low-income elderly and families as mandated by the law.

But Mr. President, it should not surprise anyone that an administration which proposed to end most of the FmHA subsidy programs through a moratorium in January of 1973, would be violently opposed to a rental assistance program in August of 1974. And what has happened since is a sad history of duplicity, foot-dragging, doubletalk, and contempt of Congress by this administration.

I am compelled to chronicle this record because I believe that Congress should not accept this affront to its authority and just as importantly, thousands of rural people are losing an opportunity to live in decent housing as a result of the refusal of the FmHA to implement the rural rental assistance program.

The following is a brief chronicle of attempts by Congress to get the FmHA to implement the rural rental assistance program:

First. On November 21, 1974, 3 months after the passage of the 1974 Housing and Community Development Act, the Senate Subcommittee on Housing and Urban Affairs held oversight hearings on rural housing programs. During those hearings, Deputy Assistant Secretary James Bostic was asked by Senator

HATHAWAY when the rental assistance program would be implemented and when regulations would be promulgated. Mr. Bostic indicated that the Agency was waiting for a signal from Congress that it was serious and really wanted the rental assistance program implemented. In answer to a question on when regulations would be available for use of the rental assistance program, the Agency indicated that procedures and instructions were being developed. Mr. President, may I advise you that to date, some 19 months later, no regulations have been issued.

Second. On November 25, 1974, Senator HATHAWAY engaged Senator MCGEE in a colloquy regarding the implementation of the rental assistance program with the hope that some action could be taken in an upcoming supplemental appropriations bill. The distinguished chairman of the Subcommittee on Agriculture Appropriations suggested the need for information from the Agency on the cost and need for the programs. Senator MCGEE indicated that such a letter had been sent. Mr. President, the Agency did not respond to Senator MCGEE's letter for 2 months, and when they did they ignored the questions raised; that is, the need and the cost of the program.

Third. It was only after prodding by Senator MCGEE that FmHA responded with the requested information. Even in this response there was an attempt to inflate the projected cost of a rent supplement program confusing the amounts involved with those of the interest credit portion of the section 515 program. In addition, the Agency claimed that a large increase in staff would be required to administer such a program. However, studies I requested showed these estimates of staff needs to be highly inflated.

Fourth. The fiscal year 1976 Appropriations Act for the Department of Agriculture and Related Agencies (Public Law 94–116) contains language in the act which provides reaffirmation of congressional intent for the Department to implement the rental assistance program. The conference report 94–528 which accompanies H.R. 8561, the appropriation act for agriculture and related agencies, is very explicit when it states—

> The conferees will expect this program (rent supplement) to be carried out so that residents of towns of under 20,000 in population will receive comparable treatment to those who reside in our major metropolitan areas.

Mr. President, it must be clear, except to those who will not see, that Congress intended that the rural rent supplement program be implemented at the earliest possible moment. The Agency has yet to take the first step in developing procedures and regulations and now is attempting to confuse everyone by saying that they are meeting the intent of Congress by using the HUD section 8 program in combination with the FmHA 515 rural rental program. This is nonsense, Mr. President. If Congress had wanted only the section 8 program to operate we would have stated this. Just the opposite is true and no fancy double-talk by the administration will change this.

The FmHA and HUD have been negotiating for almost 2 years now on how best to use the two programs in tandem. There is still no agreement on how best to accomplish this, although I am told that some agreement is imminent. We have been hearing these promises now for almost 2 years, and the much vaunted section 8 program used in tandem with section 515 has produced the tremendous grand total of 774 approvals as of June 1, 1976.

This parallels the miserable record section 8, new construction, is having in all parts of the country. The administration claims that section 8 is the answer to America's housing problems. We know better. In the meantime, thousands of needy rural persons—particularly the elderly—could be benefitting from the use of the rural rent supplement program are denied this resource because of this illegal action of the FmHA.

Mr. President, the Senate is now considering the fiscal year 1977 appropriation for the Department of Agriculture. Several important issues emerge on the question of rural rent supplements and I want to summarize these now.

First. Congress mandated the use of the rural rent supplement program as enacted in section 514, title V of the Housing and Community Development Act of 1974.

Second. The administration continues, illegally, to ignore this congressional mandate.

Third. The rural rent supplement program would be a more effective program to operate because it would not require the combining of two Federal agencies and the attendant problems which have emerged.

Fourth. The rent supplement concept is a proven method of providing decent housing for low-income elderly and families.

Fifth. According to a report of the Congressional Research Service prepared for Congressman FRANK EVANS, the rent supplement program would be less expensive than section 8.

Sixth. Millions of rural people continue to suffer from substandard housing because of low income and the use of both section 8 and rent supplements are needed to make a dent in this area of obvious need.

While the administration continues to tinker with the section 8 program and the lives of people, Congress must demand an immediate end to this reprehensible action by FmHA. Mr. President, I urge that language mandating the implementation of the rural rental assistance program be included in the agriculture appropriations bill now being considered by the Senate.

BAYH UNVEILS STRATEGIES AND AGENDA TO MEET SCHOOL VIOLENCE AND VANDALISM CRISIS

Mr. BAYH. Mr. President, for some time now my Subcommittee to Investigate Juvenile Delinquency has been investigating the critical problems of violence and vandalism which confront our Nation's elementary and secondary schools. Following the release more than a year ago of our preliminary study, "Our Nation's Schools—A Report Card: 'A' in School Violence and Vandalism," the subcommittee conducted extensive hearings in which testimony was heard from virtually every element of the educational community, including students, teachers, parents, principals, superintendents, and several prominent educational research organizations.

Today, on the occasion of the release of our two hearing volumes, "Nature, Extent and Cost of School Violence and Vandalism" and "School Violence and Vandalism: Models and Strategies for Change", I urge my colleagues to review these documents and remarks outlining our strategies and our agenda to help meet the school violence and vandalism crisis. I respectfully solicit your comments and advice.

Mr. President, I ask unanimous consent to have printed in the RECORD my remarks and the accompanying list of organizations.

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

STATEMENT OF SENATOR BIRCH BAYH UPON RELEASE OF SCHOOL VIOLENCE AND VANDALISM HEARINGS

The 200th Anniversary of our country is indeed a time to reflect upon our struggles and accomplishments during this relatively short span of history. One of the hallmarks of the American experience has been a strong commitment to public education. In fact, the roots of our public elementary and secondary school systems were firmly planted on this continent decades before the Revolution was fought, the Declaration of Independence was signed or the Constitution was adopted. Throughout the intervening years we as a people have become devoted to the concept of a free public educational system where every citizen has the opportunity to learn the lessons and acquire the skills that in other times and places were reserved only for the aristocracy.

Today, upwards of 50 million students join with over 2 million educators in thousands of schools across the country to study and learn. Almost one quarter of the total population of the United States can be found in our public elementary and secondary schools. Each year the American people spend over $60 billion to support this system which has graduated in excess of 60 percent of our adult population and has produced a literacy rate far greater than most other nations.

While the Bicentennial provides us with an opportunity to recognize our successes, we should also be cognizant of our problems and shortcomings and one of the most troubling situations facing schools today is the shocking trend to greater violence and vandalism. For some time my Senate Subcommittee to Investigate Juvenile Delinquency has been studying the extent of these problems and possible strategies that can be helpful in reducing them. Part of this extensive effort involved a series of public hearings to fully explore these issues and to search for workable solutions and I am today releasing two volumes containing the transcripts of these hearings; *Nature, Extent and Cost of School Violence and Vandalism and School Violence and Vandalism: Models and Strategies for Change.*

Over thirty witnesses, representing every element of the educational community, pro-

vided the Subcommittee with a wide and varied perspective on the problems of violence and vandalism. These witnesses included students, teachers, parents, school security directors, principals and superintendents as well as representatives of several prominent educational research organizations, including those with a keen interest in the impact these and related educational problems have on minority students. Their testimony gave us valuable insights and information on schools located in large metropolitan areas, small rural towns and affluent suburban communities across the country. In addition, these volumes contain a series of selected articles, studies and reports to assist the educational community in formulating workable and effective strategies for improving the situation in our schools.

I am proud that our hearings provided the opportunity for an open and candid discussion of these most critical problems. The lack of a uniform nationwide reporting system makes the extent of violence and vandalism in schools somewhat difficult to measure with absolute precision. The difficulty of obtaining an accurate accounting was vividly illustrated by testimony at our hearings on the problems being encountered with the Safe School Study currently being conducted by the Department of Health, Education and Welfare under the mandate of Congress. One observer termed this study a continuation of the "Velvet Coverup" that has shrouded the problems of school violence and vandalism in secrecy for far too long. The Subcommittee is currently working with the Department to assure that the final results of the Safety School Study will more accurately reflect the situation in our schools.

While the range of estimates of the extent of these problems may differ somewhat, however, the testimony contained in these volumes can leave little doubt that our schools are facing disturbing, and at times critical, levels of violence and vandalism. On a national scale we are currently spending almost 600 million educational dollars each year as a result of vandalism in our schools—more money than we spent for textbooks in 1972 and enough to hire 50,000 additional experienced teachers without increasing taxes by one cent. Even more shocking, however, is the almost 20,000 physical assaults on teachers and the literally hundreds of thousands of assaults on students perpetrated in our schools annually.

The effects of these incidents, of course, extend far beyond the immediate victim and the stark statistic. When teachers testify that they are afraid to walk the halls, when teachers are raped in their classrooms in front of their students, when a superintendent attributes the high truancy rate of his district to a fear of gangs, when students describe a wide variety of weapons in schools from knives and chunka sticks to an occasional Saturday Night Special, when students are victimized by organized extortion operations demanding lunch money and when drugs are easily obtained from pushers circulating in our hallways and playgrounds there can be no question that the already challenging task of education becomes almost impossible to carry out.

While certainly not every school in the country is faced with serious rates of violence and vandalism the testimony contained here makes it all too apparent that an increasing number of them are confronting more frequent and intense problems in this regard. Moreover such schools can be found in rural and affluent suburban areas as well as urban settings. A teacher, who himself had been the victim of violence at a school located in one of the wealthiest communities in America, emphasized to the Subcommittee that the day has long since passed when a community could afford to hide from a discussion of these issues behind the brash attitude that it can't happen here.

Too often, however, the shocking incident and the frightening statistic overshadow the more positive developments. The same student who told our Subcommittee of drug dealing, weapons and beatings for hire in his Midwestern high school also pointed out how he was turned away from such activities by his involvement in an alternative education program that gave him the ability and incentive to graduate from school and go on to college.

These hearings contain more than just the statement of a problem by concerned educators. More importantly perhaps is the extensive discussions of the nature of these problems and the various strategies and educational models that can be useful in reducing and controlling them.

Throughout this undertaking we have been cognizant of the fact that our schools are in a certain sense another victim of the general societal problem of crime and especially the sharply increasing crime rate among young people, but it is little solace to the teachers and students of a school beset by violence and vandalism that their classrooms and hallways are no less hazardous than the streets or alleys surrounding them.

Moreover we must be aware that there are forces, many of which are beyond the immediate control of the school, that have a significant impact on the problems within the school. As was extensively explored throughout our hearings, problems involving the home environment, violence on television and in firms, severe unemployment among young people sometimes exceeding 40 percent in certain areas of the country and the lack of adequate recreational activities all have tremendous influence on youth, yet remain largely outside of the school's ability to directly control. In spite of this, however, both the *Nature and Extent and Models and Strategies for Change* volumes contain the clear message that schools can adopt programs and policies to reduce the chances of violence and vandalism occuring as well as reduce the level of such problems in schools where they already exist.

From the beginning of the Subcommittee's effort it has been our intention to seek out and develop strategies that are diverse and multifaceted; a necessity for any meaningful and lasting progress in confronting problems which themselves spring from diverse roots. It should be apparent that there are no easy solutions to problems such as these and programs that promise the quick cure and the easy fix too often fail because they ignore their complex causes. The Subcommittee's study of the nature of school violence and vandalism clearly indicates that a proper structuring of creative solutions must be based on a careful understanding of the source of these problems and our hearings have extensively explored this aspect of the issue. The strategies discussed throughout the hearings therefore are primarily designed to provide long range solutions rather than short term emergency treatment.

Among the strategies integral to assuring a positive approach are:

Community Education programs that can reduce vandalism costs and turn a school from a target of opportunity into a valued community resource;

Optional Alternative Education programs to insure that schools can more adequately respond to the wide variety of learning styles found in any student body;

Alternatives to Suspension that can provide school administrators with additional, more effective methods of responding to nondangerous, but troublesome student rule violations such as truancy, tardiness or smoking. Through our studies we have found that a great number of incidents involving school violence and vandalism are caused by school age intruders who are not presently enrolled in school. We must seek to provide our educators with the additional measures they need to respond to school violations so that youngsters are not placed out on the street with no supervision whatever purely on the basis of ordinary non-dangerous rule violations. Too often unwarranted suspensions result in an increase of a school's disciplinary problems rather than a decrease.

Codes of Rights and Responsibilities drawn up with the participation of all members of the school community to insure that students, teachers, parents and administrators have a clear understanding of the rules, regulations and the procedures concerning discipline;

Curriculum Reform to expand the methods of presenting material to include "action learning" techniques, various apprenticeship programs and law related education programs;

Police, School, Community Liaison programs to allow these entities to become better acquainted with each other and develop a mutual acquaintancy in a friendly, informative and personable atmosphere;

Teacher Education Courses to help future educators develop more of an awareness of these problems before they enter the classroom and provide them with training in the most effective methods of handling disciplinary situations with special emphasis on fostering sensitivity toward problems of student development;

School Security Personnel properly trained and educationally oriented to control problems once they arise, and additionally, institute programs to avoid critical situations in the future;

Counseling and Guidance programs to help students resolve their problems in an appropriate and positive manner;

Security Programs carefully designed to meet the individual needs of a school, to help reduce vandalism costs due to arson, intrusions or theft during periods the building is not occupied;

Architectural and Design Techniques to reduce the vulnerability of a school building to vandalism incidents and insure a more personalized atmosphere and a greater feeling of positive identity through smaller schools and educational units; and

Student and Parental Involvement in various programs to reduce violence and vandalism as well as other aspects of school life that can be helpful in establishing a positive community spirit.

It should be noted that the programs and strategies emphasized throughout my hearings have as their most essential element the involvement of students, teachers and parents. Promises to resolve the problems of violence and vandalism in schools defined only in terms of legislative enactments whether on the Federal, state or local level create false hopes in the face of the nature of these problems, the diversity of their origins and the intricacies of human behavior. The principle ingredient in our efforts to reduce violence and vandalism in schools is not more money or more laws, but the involvement of the educational community in the kinds of carefully planned and properly implemented programs discussed at our hearings.

While there are no Federal solutions to problems such as these, I do believe that the Federal government can do more to help control violence and vandalism in schools. Last year I introduced the Juvenile Delinquency In The Schools Act to encourage our local, state and Federal governments along with our private sector to pool their experiences and resources to help students, teachers, parents and administrators secure the type of atmosphere in our schools in which education can best take place. This bill, as an amendment to my Juvenile Justice Act passed

by Congress in 1974, will require the involvement of students and parents in these efforts and also provide a clearinghouse mechanism for the dissemination of information concerning successful programs to individual school systems throughout the country. A finalized version of that legislation, along with a full report of our study of these problems and a comprehensive discussion of the various strategies briefly outlined here, will be available soon.

I want to point out that both the bill and report are products of efforts involving meetings, correspondence and conversations with innumerable individuals and over seventy organizations and groups from across the country.* The Subcommittee's recommendations are largely a reflection of their ideas and suggestions and I deeply appreciate their assistance.

In closing, let me emphasize that I for one do not agree with the apostles of gloom and despair who tell us that we are poised on the brink of a declining era in American education, marked only by the burned out hopes and fading dreams of an institution that tried to do too much. The spirit, sense of purpose, willingness to strive and the desire to accomplish that were the hallmarks of the American educational effort over our first 200 years, are alive and flourishing in schools across our country today. As we enter our third century, we are obviously facing grave problems in American education, but we have in the past confronted such challenge and have succeeded in producing a public educational system with a breadth and depth unmatched in the history of the world. Indeed, it seems that the very strengths of the system are forged through the experience of overcoming numerous obstacles throughout our history. Today we face yet another challenge, but while there may be reason for concern there is no need for discouragement. Even a casual reader of these volumes cannot fail to be impressed with the vitality and confidence of the students, teachers, administrators and parents confronting these problems. With the cooperation and commitment of all elements of the educational community, I am confident that we can succeed in exchanging the adversity and strife so harmful to education in our schools, for the diversity and debate so necessary for learning.

* LIST OF ORGANIZATIONS

Alternative Schools Network, Chicago, Ill.
American Association of Colleges for Teachers, Wash., D.C.
American Association of School Administrators, Rosslyn, Va.
American Association of University Women, Wash., D.C.
American Bar Association, Wash., D.C. and Chicago, Ill.
American Civil Liberties Union, Student Rights Project, New York, N.Y.
American Council on Education, Wash., D.C.
American Education Legal Defense Fund, Wash., D.C.
American Education Research Association, Wash., D.C.
American Federation of Teachers, Wash., D.C.
American Parents Committee, Wash., D.C.
American Personnel and Guidance Association, Wash., D.C.
Association for Childhood Education International, Wash., D.C.
Black Affairs Center for Management, Wash., D.C.
Black Child Development Institute, Wash., D.C.
Boy Scouts of America, Wash., D.C.
Center for Law and Education, Harvard University, Cambridge, Mass.
Center for Law Related Education, Indiana University, Bloomington, Ind.
Child Welfare League of America, Wash., D.C.
Children's Defense Fund, Wash., D.C. and Cambridge, Mass.
Children's Foundation, Wash., D.C.
Commission on Children, Springfield, Ill.
Committee to End Violence Against the Next Generation, Berkeley, Calif.
Constitutional Rights Foundation, Los Angeles, Calif.
Council of Chief State School Officers, Wash., D.C.
Council of Great City Schools, Wash., D.C.
Education Commission of the States, Denver, Colo.
Girl Scouts of the USA., Wash., D.C.
Human Interaction Research Institute, Los Angeles, Calif.
Institute for Behavioral Research Inc., Silver Spring, Md.
Institute for Development of Educational Activities Inc., Dayton, Ohio.
International Association of College and University Security Directors, Hamden, Conn.
Law in a Changing Society, Dallas, Tex.
Lawyers Committee for Civil Rights under Law, Wash., D.C.
Leadership Conference on Civil Rights, Wash., D.C.
Mid Atlantic Center for Community Education, Charlottesville, Va.
Milwaukee Education Foundation, Milwaukee, Wis.
NAACP, Legal Defense Fund, New York, N.Y.
National Academy of Education, Wash., D.C.
National Association of Counties, Wash., D.C.
National Association of Elementary School Principals, Arlington, Va.
National Association of School Counselors, Wash., D.C.
National Association of School Psychologists, Wash., D.C.
National Association of School Security Directors, Fort Lauderdale, Fla.
National Association of Secondary School Principals, Wash., D.C.
National Catholic Education Association, Wash., D.C.
National Caucus of Black School Board Members, Dayton, Ohio.
National Commission on the Reform of Secondary Education, Melbourne, Fla.
National Committee for Citizens in Education, Columbia, Md.
National Conference of Christians and Jews, Inc., New York, N.Y.
National Conference of State Criminal Justice Planning Administrators, Cockeysville, Md.
National Congress of American Indians, Wash., D.C.
National Congress of Parents and Teachers, Chicago, Ill.
National Council of Churches of Christ, New York, N.Y.
National Council of Juvenile Court Judges Providence, R.I.
National Council of Negro Women, Wash., D.C.
National Education Association, Wash, D.C.
National Institute of Education, Wash., D.C.
National Involvement Corps, Wash., D.C.
National Organization on Legal Problems of Education, Topeka, Kan.
National School Boards Association, Evanston, Ill.
National School Public Relations Association, Arlington, Va.
National School Supply and Equipment Association, Arlington, Va.
National School Transportation Association, Fairfax, Va.
National Urban Coalition, Wash., D.C.
Office of Community Education Research, Ann Arbor, Mich.
Phi Delta Kappa Educational Foundation, Bloomington, Ind.
Pinkerton's Inc., New York, N.Y.
Research for Better Schools, Philadelphia, Pa.
Robert F. Kennedy Memorial, Wash., D.C.
Sister Kenny Institute, Minneapolis, Minn.
Sonitrol Security Systems, Inc., Anderson, Ind.
South Carolina Community Relations Program of the American Friends Service Committee, Columbia, S.C.
Southern Regional Council, Atlanta, Ga.
Stanford Research Institute, Arlington, Va. and Stanford, Calif.
Student Press Law Center, Wash., D.C.
United Foundation of College Teachers, New York, N.Y.
Urban Policy Research Institute, Beverly Hills, Calif.
Urban Research Corporation, Chicago, Ill.

AN ECONOMIC BILL OF RIGHTS FOR THE PEOPLE

Mr. HUMPHREY. Mr. President, enactment of an economic bill of rights which will provide the people of this Nation with the framework to achieve and sustain a full employment and balanced growth economy must be the first priority concern of the Democratic Party during this Bicentennial year.

The history of the past 6 years alone demands that such action be taken as quickly as possible. During that short time we have had two recessions—we are only now slowly emerging from the second, the worst economic crisis since the end of the Great Depression.

Last year some 10 million people were unemployed or underemployed. The unemployment rate for minority workers in many urban centers continues to range at an appalling level of 25 to 30 percent. These conditions, coupled with the double-digit inflation of the last 2 years, have brought us perilously close to the fear and despair that gripped the Nation during the decade of the 1930's.

The faltering condition of our economy since 1969 cannot be viewed as an isolated series of events. In the past 22 years the people of the Nation have been squeezed through five recessions in a pattern which is now recurring with increasing frequency and severity.

It was only during the decade of the 1960's that we consistently moved toward a full employment economy. But the goal of prosperity and economic stability which seemed so close at the end of that decade escaped us in the debacle of the 1970's.

Mr. President, it is one thing to recite the cold statistics of a national economic crisis. All too often we forget the havoc those numbers mask in terms of broken families, the physical and mental sickness induced by men and women desperately seeking work to maintain their sense of dignity and personal worth, the crimes perpetrated by those who lost faith in the ability of the Nation to provide them with opportunities to be productive and useful citizens.

These are unbearable conditions that demand full-fledged pursuit of lasting solutions.

To this end, the Joint Economic Committee held a series of field hearings to listen to the people of this Nation, to know their attitudes and their expectations and to obtain a sense of what they think should be done by Government to

respond to the fundamental economic needs of our society.

Virtually every sector of the economy was represented in that testimony—working people and people who cannot find work no matter how hard they seek it, consumers, businessmen and industrialists, State and local government officials, financial and economic experts.

Out of that testimony emerged a broad framework on which to mount the procedures to define, achieve, and sustain the conditions that spell a prosperous, stable economy. Out of that testimony emerged the Full Employment and Balanced Growth Act of 1976 which I have introduced in the Senate and which Representative AUGUSTUS HAWKINS has introduced in the House.

It was this consensus of need and the actions necessary to meet that need that I tried to convey when I testified before the Democratic Platform Committee. It was my hope then that I was able to articulate the demand for an end to the wrecking ball, boom-and-bust swings of our economy that are smashing the faith of our people in our capitalist system.

I took no pride in making that statement to the platform committee, because it was a message borne out of the failure of our Government to provide the economic leadership to which the people of our Nation are absolutely entitled.

Mr. President, I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT OF SENATOR HUBERT H. HUMPHREY

We stand at a historic crossroad in American history. Our citizens have lost confidence in both public and private institutions. They don't believe things work anymore—that business provides them quality products at reasonable prices—and that their government is competent to manage public affairs. They believe that government is run for the privileged few and not for them. They do not believe that their leaders are truthful.

Our party—the party of Roosevelt, Truman, Stevenson, Kennedy, and Johnson—has always had leadership that stood for change and progress. Today more than ever the forces for change confront us—our economy moves up and down like a roller coaster, and new business and technological change are presented to us each day.

It is only our leadership and governing institutions that are not changing, or changing too slowly to keep pace with events. We have lost our way and are mired down in the status-quo.

As Democrats, we need to reaffirm our commitment to change and progress that will serve our people's needs. That progress can build on our tradition of competence in managing government. That progress can be equally shared by all our citizens because of our commitment to economic justice. If we make this commitment, based on the principles of competence and justice, we can once again better our society and restore the confidence of our people.

Today, I want to focus on the need for change in the way we manage the economy. Most Americans have begun to realize that there is something fundamentally wrong with our nation's economy. From month to month, the statistics fluctuate, new patterns emerge and hopes rise and fall. But beneath it all, there are critical problems that threaten the vitality of our mixed capitalistic system.

THE REPUBLICAN RECORD OF MISMANAGEMENT

These are strong words, but let's look at the record.

From 1970 to 1975, U.S. economic growth rates averaged about 1½ percent compared to a historical average of about 4 percent. This means the country has had only half the productivity and prosperity improvement it has experienced traditionally. As a result, the nation lost about $500 billion in production of goods and services in the 1970–75 period. Clearly a period of economic stagnation and scarcity has settled over our land—and its consequences are tragic.

Economic stagnation has driven unemployment from the 3.5 percent rate when the Republicans took office in 1969, to a high of 9 percent, a current level of 7.5 percent, and the promise of a 6.0 percent level until 1980.

Economic stagnation has produced Federal deficits of close to 200 billion since fiscal 1970.

Economic stagnation has brought scarcity and an outrageous inflation in food, energy, housing, medical care, and other necessities for the average family.

Economic stagnation has caused poor sales and profits, underutilized capital, retarded investment, and widespread business failures.

Economic stagnation has brought enormous social costs in increased crime, poor health, and family disruption.

But most importantly, it has caused a stagnation of the spirit and direction of America.

We now tolerate waste instead of spurring productivity. We now give people welfare payments instead of work We now find our national leadership telling our citizens what we can't do, instead of affirming our potential for challenging them to do more.

The Republicans must take responsibility for this decline in both the economy and in national spirit. Since 1946 the U.S. has suffered six major recessions and five of these have occurred under Republican administrations. We have had two recessions under Nixon and Ford, with the second the worst since the Depression.

These recessions have occurred because the Republicans are a party of the past, defending the status-quo and vested interests, with meager concern for the average person, and with no new ideas on how to meet our problems. The Republicans live in a world of upside down values and outmoded theories. This had lead to one economic foul-up after another over the last seven years.

You all recall, I am sure, the "flip-flop" wage and price controls of Mr. Nixon. We had a half dozen major freezes and phases based more on political expediency than any clear intention to attack the problem of inflation.

Budget policy has also been stop-go over this period. In both 1969 and 1974, the Administration's restrictive budget proposals were a primary cause for the recessions that followed.

Tax policy has made little sense, with President Ford resisting a tax cut during the last recession, and finally proposing a tax increase in December of 1974, just as we entered the worst phase of the recession.

Then there was the Russian grain deal that put farm and food prices on a roller coaster that has not yet stopped.

And what about the WIN program, the Whip-Inflation-Now public relations gimmick that was President Ford's first major proposal on the economy.

These are just a few of the examples of the confused economic policy that has put the American economy on a roller coaster over the last seven years. Instead of being used to improve the economy, policy has become a political propaganda tool.

WHAT THE DEMOCRATS STAND FOR

When John F. Kennedy took office in January 1961, the American economy was in the first stages of recovery from the 1960 recession. During the ensuing eight years, the unemployment rate was reduced from 6.7 percent to 3.6 percent. This was accomplished with an average annual rate of increase in the consumer price index (CPI) of 2 percent per annum. All segments of the population benefitted.

Such superior performance is part of the Democratic tradition. Our people can expect it because the Democratic Party stands for concern about our people and competence in the management of public affairs. For the future, we must do these things to carry on that tradition.

We must once again make government work for our people. If this means ending programs that we established years ago, so be it. If it means bedrock reform in the institutions that we use to manage the economy, I'm for it. Let's face it, the Federal Government is out of control, because of the mismanagement of the Nixon-Ford team, and because of some of the forces for inertia in Congress, and only we Democrats have the competence to correct this.

We must also recognize that a great deal of the success of public policies depends upon the receptiveness and viability of our private institutions. Our government policies, therefore, must be geared to encouraging private sector production and employment, for that is where the great strength of America lies.

What, then, should be the goals of a revitalized Federal Government, working hand in hand with our private institutions?

Full employment of our human and capital resources should be the first priority. This is crucial to the overall performance of the economy and to the achievement of our other economic goals. Most of our recent problems—large Federal deficits, welfare, crime, poor health, and the financial difficulties of state and local governments—are all linked directly to high levels of unemployment. Even inflation, in large measure, is the result of our failure to use the resources that are available to us.

To correct these problems, the Democratic Party should fight for the right of all adult Americans able, willing, and seeking work to opportunities for useful jobs. To make that commitment meaningful we should pledge ourselves to make every sensible effort to reduce adult unemployment to 3 percent within four years. Admittedly, this is an ambitious goal. But it can be done, if we are creative with economic policies, and if we work with business and labor in a cooperative fashion.

To achieve full employment, we must put a priority on balanced and sustainable economic growth. We must in the immediate years ahead achieve a real growth rate that exceeds our historical average, if we are to keep our pledge of jobs for all who seek them. This growth should be balanced among the cities and regions of our country, with attention to shifting priorities to meet emerging national needs.

Full employment and balanced growth must be accompanied by price stability, for it is escalating prices that rob people of their purchasing power and eventually bring an end to healthy economic growth. As Democrats, I believe we should pledge ourselves to make every sensible effort to reduce inflation over the next four years to half of what it has been under the Nixon-Ford team.

Let us also pledge that this economic growth is justly shared throughout our society. In 1960, there were 40 million people living in poverty. Over the next eight years of Democratic policies 15 million people moved out of poverty because of increased jobs and incomes. Since 1968, the number of persons living in poverty has been virtually unchanged. We must commit ourselves to a return to such rates of human betterment in the next four years.

If we give our full energies to these goals,

and enact policies to achieve them such as I will outline below, we can also achieve the goal of returning the Federal Government to a balanced budget within the next four years. We can substitute work for welfare and unemployment compensation. We can begin again to pay our way as a nation.

If we can agree on these goals, what then are the policies we need to achieve these goals? First and foremost, I urge the Platform Committee to support the Full Employment and Balanced Growth Act of 1976, sponsored by myself, Congressman Augustus Hawkins and many other members of the House and Senate. This measure recognizes that there is no simple path to full employment, balanced growth and stable prices, through a single bill or program, and instead proposes a new economic policy framework for managing the economy, with a package of programs to give that new process direction and meaning. The actual activities will vary from year to year, depending upon economic conditions, and Congressional and Presidential decisions—this flexibility is a major strength of the legislation.

MODERNIZING OUR ECONOMIC POLICY

The first thing we must do to modernize the Federal Government's policy-making process is to create a new institutional structure and process within which the President, Congress and the Federal Reserve are required each year to develop common economic goals and priorities so that a clear national direction is set. Last year, instead of setting goals that would challenge the instruments of economic policy, the economic debate sank to a superficial discussion of the size of the deficit and the rate of the money supply increase.

To correct this, the President should in each Economic Report propose annual numerical goals for employment, production, and price stability. The Congress would review the President's proposals, along with an independent report of Federal Reserve policies and, in conjunction with its analysis and debate on the budget resolution, set national economic goals and policies for each year. This new process will encourage national cooperation on economic policy instead of the conflict and chaos we have had in recent years.

The President should also be required in each Economic Report to make a determination of the extent to which aggregate monetary and fiscal policy can be relied upon to achieve the goals of full employment, production and price stability. This is necessary in order to identify the limits of aggregate monetary and fiscal policy, and determine the extent to which supplementary employment and price policies are necessary.

New institutional requirements should also be placed on the Federal Reserve to make it a full partner in national economic policy-making. The Federal Reserve Board should be required to submit to the President and Congress, shortly after the transmission of the President's Economic Report, an independent statement setting forth its intended policies for the year ahead, and the extent to which these policies will achieve the economic goals proposed by the President.

It is obvious that we must also lengthen the time frame of economic policy. Annual economic goals should be set in the context of a longer-run overall plan about where the country is headed and how we can achieve full employment and reasonable price stability. If we do not begin to plan, and instead continue to careen from crisis to crisis, our economic performance will be damaged and the confidence of our citizens in the institutions of the economy and government will be further weakened.

We need such planning in order to establish long-range goals to meet our most important needs. We also need to set long-range goals go push ourselves and the nation to do the very best. Economic and social goals are not yet just technical considerations, but are broad choices that reflect the moral tone and spirit of a society.

Planning can also assist us in developing information and understanding about the long-run supply side of the economy: our population trends, labor force participation, the supply of certain skills, the availability of capital and natural resources, and our capabilities more generally. This information will enable us to avoid or minimize future shortages and bottlenecks.

Finally, economic planning will help us rationalize the long-range impact of government policies and programs on the economy and avoid duplication and contradiction in government activities. The economy, we must remember, is an integrated whole and, as long as policy is undertaken in a fragmented way, the results will be chaos.

I believe such a coherent policy-making framework is contained in the Full Employment and Balanced Growth Act of 1976, sponsored by myself and Congressman Hawkins, and I encourage you to support it as a part of the platform.

FULL EMPLOYMENT POLICIES

When the Republicans took office in 1969 the unemployment rate was 3.5 percent. Since then it has reached a high of 9 percent, is now 7.5 percent, and is not likely to go below 6 percent for the foreseeable future. Such high levels of unemployment are, in my opinion, a cancer in the American body politic.

To turn this situation around, as I have already indicated, will in the first instance require an ambitious commitment to full employment and a modernizing of the way we manage national economic policies. Annual goals must be set, the Federal Reserve must be made a full partner, monetary and fiscal policy must be carefully coordinated with our goals, and the Federal Government must begin to plan ahead.

But these institutional reforms must be accompanied by a broad range of carefully targeted employment programs that get to hard to employ regions and people. We will not reach full employment by simply pumping up the economy with conventional monetary and fiscal policy. Conventional monetary and fiscal policy must be supplemented with a complete package of specific policies that reduce unemployment in regions, States and among groups in the labor force who have special employment problems. In a sense, we need to formally marry macroeconomic, economic and manpower policies.

The lack of formal coordination between Federal, State and local governments, for example, has led to inconsistent and ineffective national policies that prevent us from achieving our goals. This lack of coordination is particularly manifest during periods of high unemployment. Recessions produce large revenue shortfalls for State and local governments and increased expenditures for many unemployment related services. Each percentage point increase in the national unemployment rate reduces State and local government tax receipts by approximately $6 billion and increases State and local government expenditures by millions more. In 1975, for example, State and local government revenues fell $27.4 billion short of full employment levels due to the recession.

These revenue shortfalls and increased demands for service force State and local governments to undertake austerity measures to maintain balanced budgets. The results are tax increases, cuts in current services levels and capital construction delays or cancellations—actions which directly undermine and contradict Federal Government efforts to stimulate the economy.

The principal element of any comprehensive strategy to coordinate Federal, State, and local government economic policies, therefore, should be a permanent program of counter-cyclical assistance to State and local governments.

Other lines of defense during economic downturns should be public employment, public works projects and direct stimulus to employment in the private sector. In each case the policies and triggers for these policies should be carefully thought out and set in place *before* a recession begins.

As we have learned from regional hearings held by the Joint Economic Committee, all regional and local economies do not experience simultaneous changes in economic conditions.

Some approach full utilization of labor and capital resources before the national economy reaches full employment. Others lag well behind national indicators. Some remain chronically depressed for long periods.

Aggregate fiscal and monetary policies are not designed to respond to the widely varied economic conditions that individual regions experience. This structural inadequacy becomes increasingly acute as the economy approaches full employment. At that point, additional monetary and fiscal stimulus only places upward pressures on wages and prices in tight labor markets, while doing little to reduce unemployment in depressed areas. More specific policies should be developed to reduce unemployment in regions and areas, particularly central cities, and depressed rural areas that do not participate fully in national economic prosperity.

One component of this regional economic development strategy should be a Domestic Development Bank to make low interest loans to businesses and State and local governments for the purpose of encouraging private sector investment in chronically depressed areas. Such a bank would increase the availability of jobs in areas that experience unemployment rates consistently and significantly in excess of the national average.

In addition to special financial aid to chronically depressed areas, we must also strengthen existing programs to train disadvantaged workers. This includes workers with outdated skills, workers in depressed areas who have no marketable skills, and those who need remedial education in addition to training. Full enforcement of all equal employment for minorities and women, including Federal contract compliance and the provision of adequate resources for the Equal Employment Opportunity Commission is essential.

The special problems faced by young people entering the labor force for the first time persist whether the overall rate of unemployment is close to 4 percent or 8 percent. Even in 1969, when the overall unemployment rate averaged 3.4 percent, the rate for 16–19 year olds was 12 percent. In 1975, when overall unemployment averaged 8.5 percent, the teenage unemployment rate jumped to 20 percent. These double-digit unemployment rates extend also to young adults 20–24 years old. In many inner city ghettos, the unemployment rate for young people exceeds 50 percent.

Many of these young people will lose the opportunity to develop job skills and work experience, to experiment with different kinds of jobs, and to adjust to the demands of the labor market—a healthy process which normally precedes entry into a career job. Prolonged unemployment increases the incidence of crime, drug abuse, and other forms of behavior that can ruin a young person's chance for achieving a productive life in the future.

To meet the particular needs of youth, we should consolidate all existing youth employment and training program. Furthermore, we must combine such activities with better job counselling at the high school and college level. This means a more effective partnership between schools, businesses and labor unions. And finally, as part of a

comprehensive youth employment strategy, teenagers and young adults should be eligible for jobs in public employment projects, including conservation, rehabilitation of inner cities, etc.

Whatever structural employment policies are implemented, there is likely to be some residual of people especially difficult to employ. The President should be required through the Secretary of Labor to establish special means for training and locating jobs for these people in the private sector and, to the extent that this is not successful, to provide public employment. It is anticipated that this will be a small number of people if the other policies and programs mentioned are implemented.

Our full employment strategy should endeavour to substitute work for such income maintenance and welfare to the maximum extent consistent with the needs and handicaps of those eligible for such programs.

But the advantages of full employment go far beyond reducing welfare payments. Full employment could add $800 billion to the nation's income between now and 1980, which could mean savings of $6,000 for every man, woman, and child in the United States. Total Federal, State and local tax revenues could be increased by over $400 billion, which would virtually eliminate the red ink of government deficits we have had for years. Welfare costs would be down, we would have less crime and, most importantly, the people who have been unemployed would feel they had a purpose in our society.

ANTI-INFLATION POLICIES

The average annual rate of price inflation under the Nixon-Ford administration was about 7 percent, with double digit inflation in 1974. Inflation under the Nixon-Ford team has been about 3 times the rate of increase that occurred in the 1960's under Democratic administrations.

The costs of this inflation have been enormous and are evident in the disruption of our economy and the division of our society. The main effect is to redistribute income in a highly inequitable and capricious fashion, usually hitting hardest at the weakest and least organized in our society. Increasing prices also erode the real purchasing power of savings and distort investment incentives.

These costs have been made all the more painful by the misguided policies of trying to fight inflation by curtailing production and increasing unemployment. Such policies have done nothing to restrain inflation and only add to the burden of higher prices.

Those who argue that more production and employment cause inflation have got things turned upside down. The way to reduce prices is to increase production, productivity, and the supply of goods and services like food and health care.

I am not propounding a theory, but reporting the facts. During the early 1950's, and again in the mid-1960's, increased production and employment was accomplished by lower rates of inflation. Our recent experience with unemployment and inflation tells the same story. In 1975, when we reached an unemployment rate of about 9 percent, we had an inflation rate that for many months exceeded 10 percent. Since then, as production was increased and unemployment reduced, the rate of inflation dropped by about one half.

Although I believe production and productivity are the best weapons against inflation, I recognize that as the economy approaches full utilization of its human and capital resources, bottlenecks and price pressures are likely to develop. There are also some inflationary biases in the economy because of public and private structural defects that also require attention if we are to reduce inflation. To deal with these problems, we must increase economic stability, strengthen competition, and develop an anti-inflation ethic among all members of our society.

Increased economic stability would reduce inflation by preventing unnecessary shocks to the economy and providing a more predictable environment for private investment. To do this we should focus upon:

Improved coordination and timing in fiscal and monetary policy;

Reducing capacity imbalances and shortages in problem industries and sectors of the economy;

Stabilizing excessive fluctuations in international markets for basic commodities; In some markets, such as those for agricultural grains, this can most effectively be done by maintaining reserve stocks against potential future crop failures.

It is also imperative that we move to improve the flexibility of the economy and its ability to respond to change in a non-inflationary fashion. This can be done through a vigorous promotion of competition in the private sector, a reexamination and reform of the existing regulatory structure, and promotion of a freer system of international trade.

First, in several sectors of the economy we have tolerated a growth and concentration of economic power beyond that which can be justified by economies of scale. Firms have grown through diversification into related industries and through consolidation of production, distribution, and marketing. This growth reduces the risks of large corporations relative to smaller more specialized firms and restricts the entry of smaller firms. I believe that the anti-trust laws must be vigorously enforced as a means of opening these industries to potential entry of new firms. New measures will also be needed to prevent the merger of production, distribution, and marketing functions within a single firm.

Second, the existing structure of government regulation has been, in many cases, ineffective in accomplishing the goals originally set for it; and, in some cases, it has become outmoded because of changing technology. I believe we must support top-to-bottom change in the regulatory area.

Third, for some of our largest industries foreign competition is the most effective deterrent against excessive price and costs increases. The United States currently has a substantial foreign trade surplus and within a system of flexible exchange rates we need not fear that the American economy cannot compete in foreign markets.

The inflationary effect of external shocks and economic instability extends beyond their direct effect on the price level. They set in motion increases of wages and prices in other sectors as workers attempt to restore real income losses and to catch up with the wage increases of others, and as firms in other industries pass cost increases through into prices. This introduces a price-wage spiral into the economy.

Because the Federal Government has a responsibility to moderate this spiral of inflationary expectations, I believe efforts should be made to develop an anti-inflationary ethic among all our citizens. At times, this may call for more direct government involvement in wage and price decisions to speed the return to price stability. This involvement should not be a system of mandatory controls since much can be accomplished through a system of voluntary cooperation between business, labor, and government.

First, the government should provide guidance to private wage and price decisions as a part of a coherent multi-year plan for the reduction of inflation.

Second, the Federal Government should hold public hearings, investigate, and publish the facts on price and wage increases that seriously threaten national price stability. If necessary, such increases should be delayed until a complete public investigation is made.

Finally, tax policy should be used, if necessary to maintain the real income of workers in order to moderate wage demands.

ECONOMIC JUSTICE

This party has a long tradition of opposition against the increasing concentration of wealth and economic power. At the present time, a small number of the American people control most of our productive wealth. The rest of our population—including all working men and women—struggle to make ends meet in the face of rising prices and taxes.

We should repledge ourselves to combat those factors which tend to concentrate wealth and economic power. To that end, the next Democratic Administration should commit itself to the following policies.

The battleground for economic opportunity has shifted from the courtroom to the marketplace. The first and crucial step in that battle, as I have already indicated, is full employment for all those able, willing, and seeking jobs. A productive job means income and an opportunity for our workers to share in the abundance of our economic growth.

The next step is to move vigorously against the concentration of power within the business sector. Part of this can be accomplished by strengthening the anti-trust laws and enforcing these laws. We must do that. But we need to go beyond this negative remedy to a positive policy for encouraging the development of small business.

Presently, small business accounts for one-half of all private employment, 43 percent of all business output, and one-third of the Gross National Product. A healthy and growing small business community surely is a prerequisite for increasing competition and a thriving national economy. While most people would accept this view, the Federal Government has neglected and impeded the growth of small business.

We must now take action to alleviate the capital formation problems of small business. Small business relies much more heavily on retained earnings to finance general operations and future expansion than big business does. Credit policies must be developed that provide capital for small business to grow.

The problem of obtaining capital is compounded by inequitable effective Federal corporate income tax rates. The Federal Trade Commission has determined that manufacturing firms with assets under $50 million have an effective tax rate of almost 51 percent. Firms with assets of $100 million to $250 million pay only 46 percent. And the largest firms, ones with assets of $1 billion and above pay even less—just 35 percent. The Federal corporate income tax code must be changed to remove these inherent inequities and give small business an equal chance to compete with its larger competitors.

At the very least, the corporate surtax exemption level of $50,000 should be made permanent. Congress should, in addition, graduate the Federal corporate income tax code. Presently corporations pay 48 percent on all income in excess of $50,000. I believe that level should be raised to encourage small business.

Estate tax reform for small business is also necessary. Small businesses are adversely affected by Federal estate taxes in two ways. First, payment of levied estate taxes may force the liquidation of small businesses. Second, the estate tax bias toward liquid assets induces owners of small businesses to sell out to large firms to convert their relatively illiquid small business asset into more liquid common stock or cash. The impact of the standard exemption level of $60,000 set in 1942, has also been destroyed by inflation. The $60,000 figure should therefore be increased.

No small business policy would be complete without addressing the Federal paperwork and regulation issues. While Congress must bear some of the responsibility for the large amounts of Federal paper that small businesses must process, it is the agencies and departments of the Executive Branch that design and issue the Federal forms. The next President should direct the Executive Branch to cut the paperwork load heaped on small business.

Small size is no excuse for being exempted from Federal regulations. Federal regulatory agencies, however, must understand that small businesses face special problems in complying with their regulations. In dealing with small business, the adversary relationship between regulatory agency and regulated small business must be replaced by a cooperative one. The two parties must work together to see that Federal regulations are met, but not by applying a stranglehold on the small firm.

The achievement of economic justice will also require a firm commitment to tax reform at all levels. In recent years there has been a shift in the tax burden from the rich to the working people in this country.

The Federal income tax code illustrates this with a "upside down" effect that distorts the distribution of tax benefits in favor of upper income groups. A 1974 study of taxes found that fully 53 percent of the tax benefits went to the 14 percent of taxpayers with incomes of $20,000 or more. As you can see, the Internal Revenue Code offers massive "tax welfare" to the wealthiest income groups in the population, and only higher taxes for the average citizen.

We should pledge ourselves to the long-run review of all special tax provisions to ensure that they are justified, that they work efficiently, and that they are distributed equitably among our citizens.

For the immediate future a responsible Democratic tax reform program could save over $5 billion in the first year. Among the specific reforms at the top of a Democratic tax reform agenda, I propose:

To strengthen the minimum tax, so that every citizen pays at least some tax on all his income, and cannot use loopholes in existing law to escape taxes altogether.

To clamp down on the use of tax gimmicks in areas like oil and gas, farming, real estate and movies, which now allow wealthy individuals to receive excessive tax deductions in these areas to offset income from other sources.

To eliminate inefficient tax incentives to business and substitute more effective incentives for capital formation, including improvements in the Investment Tax Credit.

To end abuses in the tax treatment of income from foreign sources, such as repealing the tax deferral available to multinational corporations, and unjustified incentives that drains jobs and capital from the American economy in favor of foreign operation by U.S. corporations.

To curb "expense account" living, by denying deductions for frills.

To protect the rights of all taxpayers against oppressive procedures, harassment, and invasions of privacy by the Internal Revenue Service.

There are other areas of taxation where change is also needed, apart from the Federal income tax. The Ford Administration's unwise and unfair proposal to raise the regressive social security tax gives new urgency to the Democratic Party's goal of reducing the burden of the social security tax. I believe we must take steps to make the burden less regressive, such as raising the wage base for earnings subject to the tax and providing effective exemptions and deductions, comparable to those in the income tax, to ease the impact on low income workers.

The Democratic Party should also make a reappraisal of the appropriate sources of Federal revenues. The historical distribution of the tax burden between corporations and individuals, and among the various types of Federal taxes, has changed dramatically in recent years. For example, the corporate tax share of Federal revenue has declined from 30 percent in 1954 to 14 percent in 1975.

Taxes are the price we pay for our collective efforts as a society, and I believe their burden must be shared more fairly if we are to make good on our commitment to economic justice.

The final step in achieving economic justice is to broaden the sharing of wealth in this country.

Total personal wealth in 1972 was $4.3 trillion. Nearly one-fourth of the $4.3 trillion of personally held assets were owned by the richest 1.0 percent of the population, while those with a gross estate greater than $60,000, who comprise just 6 percent of the population, own half of those assets. Most wealth is concentrated among a few people.

The U.S. is portrayed as a prosperous middle-class country, but a different picture emerges when it is understood that in 1972, 55 percent of household units had a net worth of less than $10,000 while 12 percent had less than $1,000. For most of our citizens just keeping significantly ahead of debts is not an easy matter.

I believe that the U.S. should develop programs that will spread newly created wealth each year more broadly among its citizens. Consideration must be given to programs that focus on broadening corporate stock ownership in America since it is the asset that holds the greatest potential for providing a broader base of wealth.

Having outlined some of the crucial goals and policies for the future, there are three additional areas I believe we should give special attention to in the Democratic platform.

First, as a part of our commitment to economic justice, we must pledge ourselves to maintaining and improving the purchasing power of the elderly. The most important thing we can do in this regard, as I have already mentioned, is to reject the Ford Administration's unwise and unfair proposal to raise the Social Security tax. The Social Security Fund is in difficulty today because high unemployment over the last four years has reduced revenues to the fund by more than $40 billion. Let's get back to full employment, which will return the Social Security fund to a surplus, and at the same time provide additional job opportunities for our senior citizens, if they choose to work.

Economic justice also dictates that the Democratic Party renew its commitment to give our farmers a fair shake. Although farmers work from dawn till dusk, and in many cases into the night, farm incomes have fallen 13 percent since 1973. This trend must be reversed through the development of a national food policy that decreases the economic uncertainty the farmer faces, encourages maximum production through price support levels equal to production costs, and provides for the orderly expansion of international markets. Both the consumer and the farmer will benefit if we take farm prices off the roller coaster they have been on for the last seven years.

Stable growth for the farmer must be part of the balanced growth of all of our regions, particularly our urban centers. As you all know too well, many of our urban centers are in decline because of the recent recession and high unemployment. They are also in decline because the Nixon-Ford Administrations have not made the cities a national priority. We must not repeat this mistake. I believe the Democratic Party must pledge itself to revitalizing our cities with policies for full employment, general revenue sharing, anti-recession aid, tax reform, improvements in the municipal credit markets and improved housing.

Mr. Chairman, members of the Committee, there are additional recommendations on these problems, as well as other important areas, such as energy and housing, in the Joint Economic Committee's 1976 *Annual Report*. I submit this report to the Committee for your consideration in the drafting of the platform.

If we pursue the policies I have indicated, I believe we can have the creative change in our society that will move us toward full employment, balanced growth, stable prices, and economic justice. The road will not be easy, but the journey is essential.

I thank you for the opportunity to speak today.

CONCENTRATION IN THE OIL INDUSTRY

Mr. GARY HART. Mr. President, on Tuesday I had the pleasure of appearing with Senator BENNETT JOHNSTON on Martin Agronsky's "Evening Edition." During the course of our discussion regarding the desirability of vertically restructuring the major oil companies, Senator JOHNSTON stated that the oil industry was becoming less and less concentrated. When I noted that the trend in a significant segment of the oil industry was in the opposite direction—toward greater concentration—Senator JOHNSTON challenged me to put such evidence in the RECORD.

Mr. President, I ask unanimous consent that a chart reflecting the substantial increase in concentration in crude oil production be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. GARY HART. Mr. President, the following chart was compiled by the Federal Trade Commission in its report on "Concentration Levels and Trends in the Energy Sector of the U.S. Economy." It reveals that concentration in crude oil production has been steadily climbing. Indeed, 8 firms control more than half and 20 firms more than three-fourths of domestic crude production. The FTC staff has further indicated that on the basis of incomplete published data, the top 20 crude producers acquired, in whole or in part, 151 production companies.

Mr. President, these statistics do not adequately reflect the full degree of concentration in crude. For example, these same 20 companies by 1970 had control of 79 percent of all proven reserves in the United States and Canada. Even this high degree of concentration ignores the further control over crude the majors exercise through farm out agreements with independent producers and through ownership of pipelines.

It is time this Congress face the ever-increasing dangers to free enterprise posed by excess concentration of vital industries. Vertical restructuring of the petroleum industry is an important first step.

EXHIBIT 1

Crude oil production concentration ratios, selected years 1955–74

	1955	*1965*	*1974*
Four largest	21.2	27.9	[1] 33.1
Eight largest	35.9	44.6	54.0
Sixteen largest	----	----	72.4
Twenty largest	55.7	63.0	[1] 76.9

[1] Four company shares estimated from 8-company Census groups on the basis of individual company reports.

Source: 1955, 1965 from FTC staff report, *Concentration Levels and Trends in the Energy Sector of the U.S. Economy*, March 1974, p. 40. 1974 computed from Bureau of the Census.

PROTECTION OF DUE PROCESS UNDER THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the Genocide Convention reflects the passionate concern for human liberty expressed by our own Declaration of Independence and Bill of Rights. That is why I am particularly disturbed by allegations that article VII of this convention infringes upon the right of every American citizen to a fair trial. Examination of this article reveals that such criticism is without substance.

Article VII mandates two procedures. First, that "genocide * * * shall not be considered as a political crime for the purposes of extradition"; and second, "that the contracting parties * * * pledge themselves * * * to grant extradition in accordance with their laws and treaties in force."

Some claim that this language would enable foreign courts to extradite American citizens under the charge of genocide without regard to constitutional guarantees. They fail to recognize that the Genocide Convention is not self-implementing. It merely authorizes the inclusion of the crime of genocide in extradition treaties.

The very nature of the extradition treatymaking process carefully safeguards the rights of American nationals. Negotiated by the Secretary of State, these agreements contain time limits and are dealt with individually. They are then submitted to the Senate for periodic review on a nation by nation basis. The two-thirds vote required for ratification by this body precludes any attempt to railroad a decision. These conditions allow the Senate to scrupulously investigate each measure, and insure due process for American citizens.

Furthermore, implementing legislation, submitted by the distinguished minority leader (Mr. HUGH SCOTT) proposes clear limits on the power of extradition. It instructs the Secretary of State to "reserve the right to refuse the extradition of a United States National," even when the crime of genocide was committed outside of the United States. If, in any case, the Secretary of State does not comply—and the rights of American citizens are jeopardized—the Senate can refuse to approve that treaty.

Mr. President, it is clear that these safeguards protect the liberty of all Americans. Therefore, I urge the Senate to reaffirm America's 200-year history of concern for human rights by ratifying the Genocide Convention.

MENTAL RETARDATION: ISSUES AND FACE OF THE FUTURE

Mr. HUMPHREY. Mr. President, I recently had the privilege of addressing Minnesota's first Conference on Mental Retardation.

Sponsored by the Minnesota Association for Retarded Citizens, the conference was unique in that it brought providers of services, volunteers, parents of mentally retarded persons, and mentally retarded individuals together to assess the current level of services available; review the unfulfilled needs of mentally retarded individuals; and develop a positive and realistic approach to create services for Minnesota's mentally retarded to meet their needs.

I have long been deeply concerned for the care, treatment and opportunities provided by this Nation for its handicapped citizens. Through the years I have supported legislation designed to assure every handicapped person the right to achieve that degree of independence of which he is capable. This includes a job, barrier-free access to buildings and transportation, equal education, health and rehabilitation services.

The gifts, abilities, and experiences of handicapped persons can greatly enrich our lives and lift our spirits. We must continue our efforts to acknowledge the worth of every human being and recognize his right to be different.

We must also continue our efforts to eliminate the tragedy of preventable or readily remediable retardation. Most cases of retardation not involving organic or physical causes are associated with conditions arising from environment, poverty, discrimination and family stress. Proper diet, prenatal and postnatal infant care, early testing for metabolic disorders, and equitable education are only a few of the ways we can prevent or alleviate many cases of mental retardation.

In addition, the incidence of mental retardation attributed to biomedical causes can be reduced by half by the year 2000 through the application of biomedical research, genetic counseling, and other techniques.

The human dimension of these facts is compelling. But for those who need an economic justification, let it be pointed out that every dollar spent for prevention is worth $1,000 spent for warehousing or wasted lives.

I cannot believe our country lacks the will or the funds to prevent every case of mental retardation which is preventable.

Mr. President, I ask unanimous consent that the text of my remarks be printed in the RECORD.

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

REMARKS OF SENATOR HUBERT H. HUMPHREY, MINNESOTA CONFERENCE ON MENTAL RETARDATION, BLOOMINGTON, MINN., JUNE 12, 1976

It is a pleasure for me to join you this morning at Minnesota's first Conference on Mental Retardation. The cause to which you are devoted is one that is close to my heart, and I feel both kinship with you and admiration for your work.

Not many years ago, if a family had a retarded child, it was faced with nearly insurmountable problems—economically, socially, and phychologically.

There was limited knowledge about retarded persons.

There were few facilities for their care, and most were either exorbitantly priced or were large institutions in which the retarded were hidden away without receiving the personal care or individualized attention they so very much needed.

But now we are beginning to emerge from the dark ages. Your efforts here in Minnesota, and the efforts of others, have made self respect, significant self support, and meaningful participation in the life of our society possible for retarded persons.

As a result, we can celebrate today the remarkable gains which have been made for our retarded citizens.

Tremendous changes have taken place in the field of mental retardation over the last 25 years:

New treatment techniques and methodologies have been introduced.

Hundreds of state and federal laws have been enacted.

Thousands of new community programs have been established and many millions of public and private dollars have been expended to improve services to mentally retarded children, teenagers, and adults.

Planning for services has shifted from a program-centered approach to an individual-centered one.

But our happiness with the distance we have traveled thus far cannot blind us to the great work which still needs to be done. Many of the most vital transformations in the opportunities available to the retarded still lie before us. Conferences such as this can help direct our efforts toward helping mentally retarded people, who might otherwise have lived wasted lives, to develop into contributing members of society.

We are making progress by talking about and demonstrating to the people of this country what mentally retarded persons can do rather than what their limitations are.

Over 95 percent of those who are mentally retarded are only mildly or moderately handicapped. And, with assistance, each can and should have the opportunity to achieve whatever degree of self-reliance and self-fulfillment he or she is capable of achieving.

A country as wealthy as ours cannot afford to allow the abilities and productive capacities of our mildly and moderately retarded to go unused.

We are changing the attitude of hopelessness which has prevailed in the past. This is an essential prerequisite for bringing the retarded more fully into our communities, and guaranteeing to them the chance to enhance and use their abilities to the fullest.

Minnesota, I'm proud to say, is a leader in "deinstitutionalization." In the last five years, the number of clients in large public residential facilities has decreased by an estimated 16 percent—well above the national average.

For those few persons who can be served only in an institutional setting, our goal is to provide the best possible care in a more humane living environment. The $16.8 million recently appropriated by the Minnesota legislature for capital improvements in our state hospitals will provide needed funds to make this a reality.

But we also need to provide the maximum opportunity for every mentally retarded person to live in a community setting of his own choosing. It costs more to institutionalize one retarded person for life than it does to provide residential training support for three people.

Associated costs are returned many times over in savings when individuals with handicaps are given the proper care, training, and motivation to leave the hospitals and institutions and become, to the extent possible, self-supporting and productive citizens.

Public agencies, private business and voluntary organizations capable of helping retarded persons find competitive or sheltered employment need to intensify their efforts. The chance to work is crucial to becoming and remaining a full citizen.

It is a fact—nearly two million handicapped persons are unemployed, although employable. And the costs, of this unemployment, both to the public and to the handicapped, are continually rising. Assistance for unemployed disabled persons and their dependents annually costs taxpayers nearly half a billion dollars.

I am pleased that regulations have finally been proposed which will implement legislation I introduced, by prohibiting discrimination against qualified handicapped individuals in any program of activity receiving Federal funds. Other legislation I have introduced which provides for demonstration projects of wage supplements for handicapped persons in sheltered workshops is being reviewed by the Senate Subcommittee on Handicapped as it conducts oversight hearings on the Vocational Rehabilitation Act of 1973.

Both of these measures will help handicapped individuals achieve the independence of which they are capable.

The transformation of public attitudes also would do much to eliminate the tragedy of preventable or readily remediable retardation.

The President's Committee on Mental Retardation recently estimated that in perhaps 85 to 90 percent of the cases not involving identifiable organic or physical causes, mental retardation is associated with conditions arising from the environment, poverty, racial and ethnic discrimination, and family stress.

In comparing a low income environment with a higher income one:

A child is 15 times more likely to be diagnosed as mentally retarded;

Premature births, often resulting in physical and mental defects, are 75 percent more common; and

45 percent of new mothers receive no medical care during pregnancy.

Many of the causes of mental retardation can be alleviated or prevented altogether simply by:

Prenatal and postnatal infant care;

Proper diet;

Early testing for metabolic disorders;

Removal of environmental hazards from lead paint and other toxic substances;

Assistance to low income parents in the early developmental training of their children in their own homes; and

Equitable individualized education for all children.

I cannot believe our country lacks the will or the funds to prevent every case of mental retardation which is preventable.

In the 25 percent of the cases of mental retardation which are attributed to *biomedical* causes, the President's Committee predicts that through the application of biomedical research, genetic counseling, and other techniques, it is possible to reduce the incidence of mental retardation from this source by 50 percent by the year 2000.

The human dimension of these facts is compelling. But for those who also need an economic justification, let it be pointed out that every dollar spent for prevention is worth $1000 spent for warehousing or wasted lives.

The problems of mental retardation cannot be solved in Washington alone—most can only be solved where the work actually is being done. But the Federal Government can provide the funds and supporting services necessary to make your efforts a success.

The Congress recently enacted legislation I have vigorously supported which provides some of the prerequisites for successful prevention and treatment of mental retardation:

the extension and expansion of nutrition programs for women and children;

the creation of diagnostic components in the various pre-school programs; and

the provision of major new funds for health services aimed at preventing or ameliorating handicapping conditions.

Congress has also made considerable progress on providing incentives for a barrier-free environment, access to transportation and housing, and income security for handicapped persons.

In addition, the Education for all Handicapped Children Act and the Developmental Disabilities Amendments, including a Bill of Rights for the Handicapped, have been enacted. I regard these bills as landmark legislation.

There are approximately eight million handicapped children between the ages of three and 21 in this country. Over a million of these children receive no educational opportunities whatsoever. Almost three million children, while in school, receive none of the special services they require in order to make education a meaningful experience.

Over nine million Americans today suffer from developmental disabilities. We have developed new innovative educational techniques and we have gained some understanding of the nature of these handicaps. But we need to provide the facilities, specially trained teachers, and individualized programs to effectively help handicapped people.

Minnesota is one of the more progressive States. But it has fallen below its intended goals, because adequate federal funds have not been made available to help us serve all the handicapped persons we originally planned to serve.

The outlook for other states was equally bleak. But the enactment of the new legislation goes a long way in restoring the basic right to education for all handicapped children and assuring an improved quality of care and facilities.

The process does not stop with the passage of these laws. Too often the gap between new legislation and actual practice is wide.

We must continue to work together as the regulations are formulated to assure that our common goals as parents, teachers, administrators, providers, and concerned citizens are met.

Planning is important in this process. But we must not forget that planning is a means to an end rather than an end in itself. We must get the job done.

Recent extension of the Rehabilitation Act of 1973 at increased authorizations, and the Congressional override of the President's veto of appropriations for the Department of Health, Education, and Welfare, will also help continue and expand the many programs designed to help our handicapped citizens achieve their full economic, social and personal potential.

Minnesota, too, has done much to inspire and supplement the federal effort.

But our work is far from over.

The problems of mental retardation are not and cannot be the sole responsibility of any one department of government. A variety of professional disciplines are required to deliver the full range of health, social, educational, habitation and rehabilitation services needed by retarded persons. There is an important role for citizens, private enterprise, the voluntary agencies, and above all, the individual himself.

Planning for the services of today and tomorrow is necessarily shifting from a program-centered approach to a client-centered one, such as that which you have been reviewing during your meetings this week.

It has been said that in spite of all the ideas and technology in the world, it all comes down to shaping one individual at a time.

No longer is it sufficient that the criterion for success be whether or not the individual is being served. Rather, it is necessary to evaluate how much improvement the person has shown and what other services will help him develop to his fullest potential.

We need to work together as a partnership to achieve these objectives. The system relies heavily on experts and concerned citizens such as yourselves to help set priorities and for the individual, to continually examine the results, to realign these priorities as progress is made, and to look to the future.

Thomas Wolfe once said:

"To every man his chance; to every man regardless of his worth, his shining golden opportunity; to every man, the right to live, to work, to be himself and to become whatever thing his manhood and his wisdom can combine to make him—this . . . is the promise of America."

These words express the promise dreamed of in 1776 when the Declaration of Independence held as self evident "that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness."

This was the promise made when our government was created of the people, by the people and for the people to establish justice and to promote the general welfare of *all* its citizens.

In this Bicentennial year we must remember that through your efforts you will be making a major contribution to helping others achieve and exercise the rights enjoyed and taken for granted by most Americans.

We *can* reduce the occurrence of mental retardation by at least half by the end of the century.

We *can* encourage the development of both attitudes and service systems that will enable retarded persons to live fuller lives in less restrictive settings.

We *can* assure mentally retarded persons full citizenship and legal rights.

We *can* develop more equitable, coordinated, efficient and effective use of public and private resources in all mental retardation programs.

We *can* achieve a greater understanding of and appreciation for handicapped persons—for their gifts, abilities and experiences can greatly enrich our lives and lift our spirits.

We *can* acknowledge the worth of every human being and recognize his right to be different.

We can do these things and we *must*.

FINANCIAL DISCLOSURE OF SENATOR HUDDLESTON

Mr. HUDDLESTON. Mr. President, each year since being elected to the Senate I have had a policy of making an annual financial disclosure for myself and my wife. For the past 2 years I have also disclosed the form 1040 of my Federal tax return and the form 740 of my State return in Kentucky.

I ask unanimous consent that copies of these three documents be printed in the RECORD.

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

WALTER D. AND JEAN P. HUDDLESTON

STATEMENT OF ASSETS AND LIABILITIES (UNAUDITED), DEC. 31 1975

	Cost	Estimated current value	Source of estimated current value
ASSETS			
Cash on deposit	$2,600	$2,600	
Savings accounts	24,172	24,172	
Note receivable (note A)	3,000	3,000	
Accrued interest receivable	404	404	
Contributions to U.S. Government retirement fund.	10,223	10,223	
Marketable securities:			
First Hardin National Bank	900	3,000	NASD quotations or recent trades according to local borkerage firms.
Citizens Bank of Elizabethtown	1,000	3,245	
Citizens Security Life Insurance Co	5,500	3,300	
Miscellaneous securities	6,150	470	
Other corporate investments (note B)	27,800	52,500	Estimate of Mr. W. D. Huddleston.
Partnership interests (note C)	53,355	168,000	Do.
Cash value of life insurance	7,500	7,500	Per policies.
Automobiles	4,000	4,000	Estimate of Mr. W. D. Huddleston.
Residence (note D)	103,000	114,000	Do.
Personal property	3,500	3,500	Do.
Total	253,104	399,914	
LIABILITIES			
Accounts payable	1,100	1,100	
Notes payable (note E)	50,450	50,450	
Accrued interest on notes payable	1,040	1,040	
Note payable, residence (note D)	37,407	37,407	
Balance of income taxes payable on 1975 income.	5,486	5,486	
Estimated income taxes payable on unrealized asset appreciation (note F).		33,953	
Total	95,483	129,436	
Net assets	157,621	270,478	

See accompanying notes to statement of assets and liabilities.

NOTES TO STATEMENT OF ASSETS AND LIABILITIES

[Unaudited]

A. Note receivable:

The note receivable from I-65 Rentals, Inc. bears interest at 10% and is payable upon demand.

B. Other corporate investments:

Name	Business	Shareholders' equity [1]	Percent owned	Estimated current value
Mid-Ky Outdoor Advertising	Real estate investment	$11,377	16.67	$7,500
HNUB, Inc	Motel operation	22,029	10.00	2,500
I-65 Rentals, Inc	Real estate investment	187,145	12.50	42,500
Total				52,500

[1] Represents total shareholders' equity, per latest available unaudited financial statements.

C. PARTNERSHIP INTERESTS

Name	Business	Total partners' capital [1]	Partnership interest (percent)	Estimated current value
Lebanon-Springfield Broadcasting Co	Radio station	$73,422	16⅔	$35,000
Village Shopping Center	Real estate rentals	42,740	33⅓	33,000
Dee and Bob	do	53,742	50	100,000
Total				168,000

[1] Represents all partners' capital accounts, per latest available unaudited financial statements.

D. Note payable—Residence:

The note payable is collateralized by a residence in Arlington, Virginia. The note is payable in monthly installments of $260, including interest at 5¾%.

E. Notes payable:

8% Demand note payable to First Hardin National Bank	$20,750
8% Demand note payable to Liberty National Bank of Louisville	25,000
7½% Demand notes on automobile purchase	4,700
	$50,450

F. Estimated income taxes payable on unrealistic asset appreciation:

Unrealized appreciation in value of assets would, if realized, normally require payment of taxes with such income being reportable as capital gains. A liability has been reported in the statement of assets and liabilities for estimated income taxes applicable to unrealized appreciation at tax rates currently in effect.

G. Contingent liability:

Mr. and Mrs. Huddleston are guarantors on a real estate mortgage of I-65 Rentals, Inc. The unpaid portion at December 31, 1975 was $18,800.

SUMMARY OF INCOME FOR 1975 (UNAUDITED)

Salaries	$44,483
Director fees	3,300
Interest and dividends	1,559
Income from partnerships	12,874
Honorariums	8,000
Gross income for 1975	70,216
Less:	
Congressional living allowance	(3,000)
Dividend exclusion	(68)
Adjusted gross income per 1975 federal tax return	$67,148
Federal and Kentucky income taxes on above income	$21,305

U.S. INDIVIDUAL INCOME TAX RETURN

Income

9. Wages, salaries, tips, and other employee compensation, $44,483.

10a Dividends $178. 10b Less exclusion $68, balance $110.

11. Interest income, $1,381.

12. Income other than wages, dividends, and interest (from line 36) $21,174.

13. Total (add lines 9, 10c, 11, and 12) $67,148.

15. Subtract line 14 from line 13 (Adjusted Gross Income) $67,148.

Tax, payments and credits

16a Tax, check if from. Schedule G, $18,127.

b. Credit for personal exemptions (multiply line 6d by $30) $120.

c. Balance (subtract line 16b from line 16a) $18,007.

17. Credits (from line 54) $81.

18. Balance (subtract line 17 from line 16c) $17,926.

19. Other taxes (from line 63) $1,114.

20. Total (add lines 18 and 19) $19,040.

21a Total Federal income tax withheld, $11,107.

b. 1975 estimated tax payments $2,750.

d. Amount paid with Form 4846, $4,000.

22. Total (add lines 21a through e), $17,857.

Balance due or refund

23. If line 20 is larger than line 22, enter BALANCE DUE IRS, $1,183.

KENTUCKY INDIVIDUAL INCOME TAX RETURN

Credits

6. Enter total of all wages, salaries, bonuses, commissions, and other compensation received in 1975 before payroll deductions, $44,483.

7. Enter dividends and interest (See Instructions), $1,491.

8. Enter total other income from line 29, $21,174.

9. Add lines 6, 7, and 8. This is your Gross Income, $67,148.

Income

10. Enter adjustments from line 34.

11. Subtract line 10 from line 9, $67,148.

12. Enter allowable federal income tax deduction from line 40, $14,767.

13. Subtract line 12 from line 11. This is your Adjusted Gross Income, $52,381.

Tax

14. Enter tax from Tax Table or from Tax Computation (line 46) for Column B—Husband, Joint or Single, $2,265.

15. Add lines 14a and b. This is your Combined Tax Liability, $2,265.

16a. Enter Kentucky Income Tax as shown on attached withholding statements, $1,659.

b. Enter 1975 Kentucky Estimated Income Tax Payments, $300.

17. Add lines 16a and b, $1,959.

18. If line 15 is greater than line 17 enter difference as Additional Tax Due, $306.

EXPORT-IMPORT BANK FINANCING NOTIFICATION

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3) of the Export-Import Bank Act notifying the Congress of a proposed Eximbank loan and guarantee to assist the construction of a conventional powerplant in South Korea. Section 2(b)(3) of the act requires the Bank to notify the Congress of any proposed loan, guarantee, or combination thereof in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress dictates otherwise.

In this case, the Bank proposes to extend a loan in the amount of $58,505,200 and a guarantee of loans by private lenders in the amount of $43,878,900 to the Korea Electric Co., a government-controlled enterprise, to assist the construction and initial operation of two 320-megawatt conventional powerplants in South Korea. Eximbank's participation will cover approximately 70 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at 9 percent per annum, and the loan and the guaranteed private loans will be repayable over a 10-year period beginning October 12, 1978.

I ask unanimous consent that the letter from Eximbank pertaining to this transaction together with accompanying material be printed in the RECORD.

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

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 2, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Senate Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with section 2(b)(3) of the Export-Import Bank Act of 1945, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I respectfully furnish herewith a copy of this statement for your consideration.

Sincerely,

STEPHEN M. DUBRUL, Jr.

Enclosure.

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 2, 1976.

Hon. NELSON A. ROCKEFELLER,
President of the Senate, U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to South Korea:

A. DESCRIPTION OF TRANSACTION

1. Purpose:

Eximbank is prepared to extend a direct credit of $58,505,200 to the Korea Electric Company (KECO), a public company owned 53.4% by the Government of the Republic of Korea, and to guarantee loans by private financial institutions to KECO in the amount of $43,878,900. Repayment of loans by KECO to Eximbank and to the private financial institutions which are guaranteed by Eximbank will be guaranteed by the Korean Exchange Bank (KEB). The purpose of the Eximbank financing and support is to facilitate KECO's purchase of goods and services from the United States for the construction of two 320 MW combined cycle thermal power plants, one in Yongwal (North Central South Korea) and one in Kunsan (Central Western coast). These two plants are needed to forestall serious power shortages that could occur by late 1977.

The equipment will be manufactured in the United States by General Electric Company which will also carry out plant design and management services for the project. The estimated total construction costs are $180,000,000 of which $146,263,000 represents purchases of U.S. goods and services.

2. Identity of the Parties:

(a) Korea Electric Company. Incorporated in 1961, KECO is the country's sole supplier of central station electric power. KECO's installed capacity in 1974 was 4,720 megawatts up from 367 megawatts in 1961. KECO estimates that electricity consumption from 1976–1981 will grow at an average annual rate of 15.4%. By 1981, KECO estimates that 10,225 megawatts of installed capacity will be required to handle the increased demand.

(b) Korea Exchange Bank. KEB will guarantee repayment of principal and interest by KECO to Eximbank and to the private financial institutions which are guaranteed by Eximbank. KEB is wholly owned by the Republic of Korea and its guarantee is backed by the full faith and credit of the Republic.

3. Nature and Use of Goods and Services:

The principal goods to be exported from the United States will be two STAG-400 combined cycle power plants, each including four 55 megawatt (nominal) gas turbine generators, a heat recovery boiler, a steam turbine generator set, controls, fuel treatment equipment, and auxiliaries. Each plant will provide 220 megawatts of power when operated in the simple cycle mode by gas turbines only and approximately 320 megawatts when operated in the combined cycle mode.

KECO is undertaking the project in response to an urgent requirement for additional power generating capacity during the late 1970's. Combined cycle plants were chosen because of the short construction schedule, improved efficiency of the combined cycle plant, and relatively reasonable capital costs.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons:

The proposed extension of credit and guarantee by Eximbank will result in the export of U.S. goods and services valued at $146,263,000 and will have a favorable effect on the U.S. balance of payments, and on the domestic economy by utilizing spare productive capacity and providing employment for substantial numbers of U.S. workers at a time when business activity in the manufacture of generating equipment is slack. It is estimated that about 7,400,000 man-hours of labor will be generated. Moreover, it is estimated that additional business, which is not part of this application but which is expected to follow in the years ahead, for spares and replacement parts for these plants could amount to about $7 million annually.

No adverse impact upon the U.S. economy will be caused by the export of these goods and services. Due to current slowdowns and cancellations of previously planned power facilities by domestic utilities, U.S. manufacturers welcome the opportunity to export such goods and services at this time and can do so without endangering the supplies of equipment available for use in U.S. markets. In fact, it is essential that U.S. power equipment manufacturers obtain export orders to maintain their production work forces which will be needed to meet domestic demand in the future. These exports also assist the United States in maintaining its competitive position in the world's power industry.

In view of the magnitude and terms of the transaction, and the limited availability of private financing, Eximbank's credit and guarantees are necessary to secure this sale for U.S. manufacturers.

2. The Financing Plan:

The total cost of U.S. goods and services to be purchased by KECO is $146,263,000 which will be financed as follows:

10%	Cash payment	$14,626,300
40%	Eximbank credit at 9%	58,505,200
30%	Private credits with Eximbank guarantee	43,878,900
20%	Private credit without Eximbank guarantee	29,252,600
	Total	146,263,000

(a) Eximbank Charges: Disbursements under Eximbank's credit will bear interest at the rate of 9 percent per annum, payable semiannually. A commitment fee of ½ percent per annum, also payable semiannually, will be charged on the undisbursed portion of Eximbank's credit. In addition, the private financial institutions being guaranteed by Eximbank will pay a guarantee fee to Eximbank of 1½ percent per annum on the amounts they have disbursed to KECO and a commitment fee of ⅛ of 1 percent to Eximbank on the undisbursed amounts.

(b) Repayment Terms: Loans by Eximbank and the private financial institutions will be repaid in twenty approximately equal semiannual installments beginning on October 12, 1978, of which the first four and a portion of the fifth installments will be applied to repayment of the private financing not guaranteed by Eximbank; the remainder of the fifth, the next six and a portion of the twelfth installments will be applied to repayment of the private financing guaranteed by Eximbank; and the remainder of the twelfth and all of the last eight installments will be applied to repayment of Eximbank's credit.

Sincerely yours,

STEPHEN M. DUBRUL, Jr.

RETIREMENT OF BERNARD A. BRADY OF THE GENERAL ACCOUNTING OFFICE

Mr. CANNON. Mr. President, over the past 17 years, Congress has been ably served by Bernard A. Brady of the General Accounting Office. Al has been the leader of the small behind-the-scenes group of GAO auditors who are always ready to provide assistance to Members, officers, and committees with their fiscal and management functions.

Al is a native of the District of Columbia and received BCS and MCS degrees from Columbus University, where he later was a faculty member for 5 years. Before joining the General Accounting Office in April 1947, he was associated with two local CPA firms as a senior accountant and junior partner.

He is a certified public accountant in the District of Columbia and Virginia, a charter member of the Association of Government Accountants, and a member of the National Association of Accountants, and the American and D.C. Institutes of Certified Public Accountants. He served on the board of governors of the D.C. Institute for 5 years.

In recognition of his accomplishments

he received GAO Meritorious Service Awards in 1962 and 1971.

Al has announced that he will retire on June 19, 1976. I want to take this opportunity to express, on behalf of the Senate, our appreciation to Al for his dedicated service.

NATIONAL SECURITY AND DEFENSE

Mr. TOWER. Mr. President, in recent months we have witnessed a sharp rise in the tempo of debate on the vital issue of our national security. Unfortunately, much of the public political debate on this issue has been seriously misleading to the American people.

In this regard, I was gratified, recently, to hear the voice of Gen. Fred C. Weyand speak out on national defense. General Weyand is a distinguished soldier who has served the Army and the Nation more than three decades. As Chief of Staff of the Army, he is eminently qualified to speak on the subject of the security of the United States.

At the commencement ceremony at Texas A. & M. on May 8, General Weyand delivered a stirring address on the absolute necessity for military preparedness. He emphasized that our inability to foresee the future demands a constant state of readiness in order to protect and defend the United States in an uncertain and imperfect world. He said:

This is the point that is of crucial importance today—that while our military forces are strong, if the trends of recent years of cutting the defense budget continue, our forces could decline to the point where they will be inferior to our potential adversaries. . . . I am gratified that the Congress seems to be taking heed to that message.

General Weyand's speech is an important contribution to the dialog on national security. He clearly thinks, as I do, that the President's recommendations will serve to reverse the dangerous trend wrought by excessive defense cuts in recent years. General Weyand's comments corroborate what I have said before—President Ford's actions speak much louder than the rhetoric of those who seek his job.

I heartily recommend to my colleagues the remarks of General Weyand at Texas A. & M. and ask unanimous consent that his speech be printed in the RECORD.

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

ADDRESS BY GEN. FRED C. WEYAND

Thank you, Dr. Williams, members of the staff and distinguished guests and graduating students—my friends. As Dr. Williams said, this is a memorable occasion for the University. I must say that it is very much so such an occasion for me to come here and be with all of you at this University that is known throughout the world for the support that it has given to the ideals and hopes of our forefathers. But more meaningful and more important than that is the work that it has done to bring its ideals to reality. And for me it is a very personal privilege and pleasure to be here, because it satisfies a commitment I made to myself some 23 years ago. Twenty-three years ago a very dear and close friend of mine was killed—an officer, a leader—his name was Jack Richmond. We were lieutenant colonels together in the Infantry. Jack was killed in 1953. He was a graduate of Texas A&M, and in the aftermath of that experience, I made a commitment that someday I would come home for him. And so today I fulfill that commitment.

This is a meaningful year for all of us because in the Nation's Bicentennial year and the University's Centennial year we tend to do something that Americans don't often do: look back. It is a healthy thing for us to look back, assess where we have been, where we are and where we are going. There are many valuable lessons to be learned from the past.

In preparing to talk to you I reread a speech that General Omar Bradley made to the graduating class here some 26 years ago on the 2d of June 1950.

And interestingly in that speech, General Bradley did as you would expect—he paid tribute to the more than 70,000 Texas A&M students who had served in the Armed Forces—20,000 of them in World War II of which 14,000 were commissioned officers, 29 were generals and somehow or another one admiral crept into that group; six had won the Medal of Honor. More than 700 of that class of 1950 that General Bradley addressed were veterans. He paid tribute to their service and emphasized the importance of the Reserve Officer Training Program.

In closing, as I suppose most commencement speakers do, he praised the spirit of Texas—the spirit of independent action and forthright courage that has marked Texans all throughout its history—and he quoted from that famous message sent from the Alamo on February 24, 1836 by Colonel William Barrett Travis.

That was a great speech General Bradley gave then. Reading it today it is still a stirring speech. But it was more important for what it did not say than what it said because as it turned out, he, just as we, could not predict the future with certainty. Now remember at that time General Bradley was like me—he was a member of the Joint Chiefs of Staff. But beyond that he was the Chairman of the Joint Chiefs of Staff and thus privy to all of the intelligence that this country had on world conditions.

Yet, as he stood here that day even he could not know that within 24 days the United States would be at war and that many of those sitting out in that audience before him would soon be engaged in armed combat in Korea.

Now I suppose if anyone on that June day in Texas had told the graduating class that before the month was out the United States would be at war in Korea, they would have thought that idea preposterous because we all knew that Korea was outside of our defense perimeter. It was the consensus of our Government that Korea was of no strategic interest to the United States. The Secretary of State had even proclaimed that publicly. Certainly nothing could be more sure than that the United States would not become involved in any land war in Asia. Yet, we did become involved in a bloody 3-year war that ultimately cost us over 33,000 American lives.

What is the lesson that we derived from that? I would say at least one lesson is that even the wisest of us cannot foresee the future. I suppose that is why one of the precepts I have personally fostered as Chief of Staff of the Army is that this Army of ours must be prepared for the unexpected.

Well, if you cannot foresee the future, how then do you provide for the security of the United States? Our Founding Fathers' answer to that problem is contained in Article II of the Bill of Rights which they adopted on December 15, 1791. In that provision they provided that "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

In those early days the United States provided against unforeseen threats by having a capability to mobilize her citizenry to be ready for the unexpected. In addition, the Constitution provided a small standing army. This was not easy for them because they were opposed to standing armies. You may recall that they fought a revolution to do away with oppression and particularly with armed oppression. And so they did argue in the aftermath of that revolution whether or not they needed an army, or an armed force, and it was Madison who argued and debated the issue of "why an Army." They decided not to make such a prohibition and provision in the Constitution, and they concluded that since they could not stop other countries from having armies—those other countries hostile to us—it would be foolish to prohibit the United States from having an army.

At the same time they were suspicious of armed force, and they wanted to make sure that the United States Army and our armed force remained a people's army . . . a servant, never a master, of the people; and so they did write into the Constitution a provision to insure that. Alexander Hamilton pointed out that the Constitution gave "the whole power of raising armies to the legislature, not to the executive;" Additionally, there was an important qualification in that the appropriation of money for support of the Army could not be made for longer than 2 years, which was a precaution against keeping large standing armies without having, as the Constitution said, evident necessity.

And this isn't just ancient history . . . because, as Chief of Staff, each year I appear before Congress for a prolonged period of sessions with committees of Congress and individual members of Congress to make the case for the Army and the funds necessary to raise, support, and equip the United States Army. The Congress, therefore, bears a very heavy responsibility to insure that, as the debates now go on, we do not become inferior.

In September 1789, the Congress incorporated under the Constitution this army they had inherited from the Confederation. This, too, had a very significant overtone to it because allegiance of this Army that I lead is not one pledged to an individual as is so often the case in other armies of the world—this Army is pledged to the United States Constitution, to bear true faith and allegiance to that Constitution and to defend and support it against all enemies, foreign and domestic.

I have been very proud of the United States Army. In the aftermath of Vietnam, after the people of the United States withdrew their commitment from the country of South Vietnam and from the people of South Vietnam, the United States Army followed by coming home. There were no bitter outcries and no revolts. Our Army is then a very unique army. Look around the world and see the consequence of the withdrawal of other armies from Algeria and the withdrawal of the army from Angola. Those other armies returned from those places in revolt and torn by dissent. We should be thankful that your Army does not pledge allegiance to any single individual. We pledge our allegiance to the Constitution of the United States.

There are a lot of the same questions asked today that were asked 200 years ago. Why do you need an Army? How much is enough? And one particular one has to do with considering our morality as a Nation—is force relevant to the problems and challenges that confront us? Well, I could make a speech on that subject; you could write a book or books about it. But the bottom line, I think, is a fairly simple and straight forward idea. Armed strength and force was relevant to Hanoi not too long ago. It was relevent to the Cubans in Angola. Obviously, it is relevant to the Soviet Union. And thus military strength is very much relevant to the circumstance in which we find ourselves today.

Today the United States has a fine, professional Army, Navy, Marine Corps, Air Force and Coast Guard—and that force is maintained in a constant state of readiness and it is backed up by an increasingly capable Reserve and National Guard force, able to react to protect our national interests in any foreseeable eventuality.

In my opinion, it's the finest, most ready, and best disciplined force we have ever had in peacetime. We must insure that they are of the highest quality because we have a great mission to perform: to insure our survival—to deter conflict and war—to maintain our freedom of action as a people and as a nation—and to uphold our position as not just "a", but "the" leader of the Free World.

You know, we often forget as we turn inward and worry about our own problems, that outside the United States, America is the beacon of hope for those who value the dignity of the individual above the state, for those who cherish, as we do, and still seek those precious freedoms of religion, of thought, of speech, of the press, of assembly, of inquiry, and of dissent—all those freedoms that have sustained us in our quest for a better life. Now, as a general officer, I have no quarrel with those who reject the idea that this country of ours has some God-given destiny to be the world's savior, or as some people say to be the policeman of the world—I never have believed it, but that does not alter the fact that the United States today is, in fact, the main beacon of hope for mankind.

Last March I sat in the House of Representatives with the other members of the Joint Chiefs of Staff, and we listened to the Prime Minister of Ireland—a man by the name of Liam Cosgrave—address a joint session of Congress. In that speech he expressed great pride in what had been accomplished by Americans over 200 years, and he was proud of it because the Irish had been involved to some degree in its accomplishments. His words carried a note of dependence and trust in America and the United States that I have heard in my visits reiterated in virtually every free country throughout the world. He said: "It may indeed seem to you at times that we apply a double standard and that we expect more of you than we expect of others. The simple answer is that we do! The world has always expected more of America; and if at times you are impatient about it, remember that the idea your friends have of you is among your greatest strengths." And he went on to say that, "It is right that you should know that you have friends abroad who still believe in everything that America stands for!" I thought at the time, "Wouldn't it be paradoxical if our friends had more faith in us than we have in ourselves?"

In this as in other things, we should see the world as it is. We should have faith in America; we should continue to look and to move ahead with quiet confidence in our ideals and the strength that flows from them. That is why we are the great nation we are today. I know that it has been difficult in recent years—the aftermath of the Vietnam tragedy, the scandals of Watergate, the abuse of power by governmental agencies—certainly these things have caused many to question the destiny of America and to wonder if this civilization is not in decline and has been seriously weakened. Well, I don't believe it. I believe that this country and our society is the stronger for all of that. The stronger for having uncovered the transgressions that tend to corrupt and to weaken us. Isn't it much more important—and essential, as a matter of fact—to realize what we are, rather than to live in some sort of a dream world thinking that everything is alright while the foundation underneath us is rotten.

I said that we should move forward with confidence and quiet strength. And we have every reason to do that. We have a sound foreign policy. It seeks a world structure based on equilibrium rather than confrontation and there is nothing new about that—that was the policy that was initiated by our forefathers about 200 years ago. It is a policy that actively seeks to maintain a balance based on power to preclude war; it is a policy that seeks partnership with others who seek the same sort of values that we cherish; it is a policy that seeks to negotiate the differences between ourselves and those who would oppose us; it is a policy that lends a helping hand to those newly emerging nations who need it and have asked for it and, above all, it is a policy whose ultimate aim is to preclude the likelihood of a nuclear holocaust.

In each instance, that policy and the policy and the policies and objectives that stem from it are shared and undergirded by our Armed Forces. It is the strength of your military in combination with economic, technological, political, and ideological strengths that gives meaning and substance to that foreign policy.

This is the point that is of critical importance today—that while our military forces are strong, if the trends of recent years of cutting the defense budget continue, our forces could decline to the point where they will be inferior to our potential adversaries. And on that point, having just come from Washington and these hearings before the Congress where I have attempted to justify the basis for the United States Army, I am gratified that the Congress seems to be taking heed to that message.

For us, the task ahead is to halt the erosion of our military strength and to bolster our will, and then do whatever is necessary to maintain relative balance between the Free World and those who threaten us. It is interesting to me to contrast the days of George Washington and today. Just as in those days, our requirements, whatever they are, must be justified in depth and detail to satisfy not just the President, but they must satisfy the Congress and the people of this country. So there is a need to continuously reexamine, redefine, and update the need for military strength so we can explain that complex need in terms that must be understandable.

This is as it should be, although it is difficult. Take, for example, the problem of convincing a farmer out in Kansas that he ought to take the money that he just made selling his wheat to the Soviet Union and give a portion of that to the country to permit it to defend him against the Soviet Union. Now this takes some real doing—at times a complex argument, and we are explaining this to complex people.

I suppose that if you think for a moment about yourself and what you are, you would have to agree that you are a complex individual—that is one of our great strengths. There are strains in Americans that portray great strength, but it is sometimes difficult for us to understand the need for physical force and military security. For example, as Americans we have a long and rather proud American tradition of irreverence toward, and suspicion of, the military. And this isn't anything new. I am sure you have experienced it and certainly I have. Three weeks ago I went to my Alma Mater—the University of California at Berkeley. I went there in uniform. I received an award. I watched the ROTC march on campus in uniform for the first time in 10 years. I suppose two or three years ago I wouldn't have gone on that campus without my bullet proof vest. But times have changed. Americans have changed. But even as we have changed there is this suspicion. I recall a story about General Grant who was very proud of his uniform. In 1843 he went back to his hometown in Bethel, Ohio, and walked down the main street in that resplendent uniform. Well, he was hooted and laughed at and finally shamed off the street. So all this suspicion and irreverence is nothing new. But we can't be discouraged by that. As a matter of fact, we need, even more than ever, to maintain our integrity and to stick up for what we believe, to face the truth, to have the courage of our convictions, and to develop the strength to stand up to criticism.

I'll admit for those of us in uniform, we may not be loved but if we can be respected for our strength—we'll be listened to.

The defense budget of this year is $112.7 billion. That is a huge sum of money. People ask, "Can we afford it?" When you examine it, you will find that it is only slightly over 5 percent of the national productivity of this country. In fact, by relative comparison, I found out that we were spending the equivalent of $300 billion a year in 1945, in war.

So, yes, preparedness is expensive, but it is not nearly so expensive as unpreparedness. When you consider the cost of the wars, just in my lifetime—four of them—not only the billions of dollars, but the hundreds of thousands of Americans killed or wounded in World War I, World War II, Korea, and Vietnam—suddenly that message from history should be clear to us: preparedness is our best guarantee of peace. As a matter of fact, we cannot afford not to afford it.

I realize that preparedness is many things. It includes the money necessary to support our military forces in-being. It includes research and development, guns, ships, tanks, airplanes, and all that. But it is a lot more than "things." The most important part—the absolutely essential ingredient—is the trained men and women of our country. It was in this sense that General Bradley said a quarter century ago that Texas A&M has played such a vital part in our Nation's security.

Even though the ROTC at this University no longer relies on "so called" conscription—it's a voluntary program—it still provides more Reserve officers than any other college or university in the Nation—and they continue to uphold the high standards set by their predecessors whom General Bradley praised 26 years ago.

I hope that at the outset I reflected the deep pride I feel in those Texas A&M graduates who serve or will serve in the Armed Forces of our Nation. At the same time, as I assess the breadth and the nature of the challenge that faces this Nation of ours today—the challenge to our moral strength, to our political unity, to our economic strength, and to our technological superiority—I am deeply conscious of the importance of the contribution that Texas Aggies are making, and will be making, in disciplines other than military.

I was looking at your program before I came down here and was astounded at the diversity of this graduating class—in a way it is representative of the diversity of this modern world, which is becoming more and more complex and interdependent. You can say that our foreign policy reflects this complexity. In our foreign policy, our military forces exist to undergird all the different aspects, but without true national strength—moral and otherwise—all those military forces and that great foreign policy would be meaningless. What I'm saying is that each of us and each of our chosen professions are very significant elements in the scheme of things.

Your University has made a mighty contribution to the political, economic, and military strength of this country. That contribution must continue.

You have come a long way from that day in October 1876 when six students braved the hazards around them and showed up for the first day of class. It is almost impossible to comprehend how far you really have come.

Today, our Nation, and we are faced with problems that do indeed seem overwhelming and insolvable. Even though the present

problems are great, compared with the enormous obstacles that have been overcome in the past, truly they are relatively insignificant. Recall George Washington, my counterpart in those days, with that army in Valley Forge starving, hundreds of them dying every day—afraid to tell the American people the plight that the army was in. Do you suppose that he would be overly concerned if he were here today and I told him about my problems and the problems of the United States and her economic problems? Or take Lincoln and the Civil War and compare that with what we hear about the divisive effects of Vietnam. Do you suppose that Lincoln would be unduly concerned over what we see as a lack of unity? I doubt it very much.

As were Washington and Lincoln, your predecessors here at Texas A&M were men of courage and they were men of faith. They were doers and they left a better world than the one they found. They kept faith with those before them who promoted and defended the principles of human dignity, freedom from oppression, freedom of choice and the supremacy of the individual over the state.

As for us, we too must work for a better world. We too must safeguard the precious freedoms for which so much has been sacrificed. We too must justify the sacrifices of others who placed their trust in America and all that America stands for. As the Irish Prime Minister said, we must this do, because we are indeed our brother's beacon.

As Texas A&M graduates, that is your responsibility, that is your obligation, and that you'll do.

I'm certain of it!

DRAMATIC EXAMPLE OF A SELF-MADE MAN

Mr. PHILIP A. HART. Mr. Chairman, early this year George N. Leighton was appointed to the U.S. District Court for the Northern District of Illinois—Chicago. A man with an outstanding reputation in the courtroom, George Leighton provides us with more than his expertise and talents. The story of his youth and his struggle against hardship provide us with a dramatic 20th century example of a self-made man. Judge Leighton demonstrated that such extraordinary careers are possible even today with hard work and determination.

I ask unanimous consent that the biography of Judge George N. Leighton be printed in the RECORD.

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

GEORGE N. LEIGHTON: A BIOGRAPHICAL SKETCH

BACKGROUND AND EDUCATION

George N. Leighton was born on October 22, 1912, in New Bedford, Massachusetts. The vital statistics of that city show his name as George Neves Leitao because he was the son of Anna Silva Garcia and Antonio Neves Leitao, natives of the African-coastal Cape Verde Islands, a 14-island archipelago that has been Portuguese territory for more than 400 years. He was reared in New Bedford and on Cape Cod, Massachusetts. He attended grade schools on Cape Cod and in New Bedford. He finished the sixth grade; but because he had to work early in life, he never entered high school. In the year that he began the seventh grade in public school, he took a job on an oil tanker sailing from Fall River, Massachusetts to Aruba in the Dutch West Indies. This ended his public school education. Between that time and September of 1936, George Leighton read extensively from books, borrowed from various sources. In 1934, he attended night schools; and at one time he studied in the 1934–35 WPA classes.

In the winter of 1935, as a memorial to the sinking of the USS Nantucket by the SS Olympic, the Cape Verdeans of New Bedford, Massachusetts, under the leadership of Alfred J. Gones, a lawyer, created the Cape Verdean Memorial Scholarship Fund. In the early winter of 1936, the first essay contest was held and two prizes were awarded for the best essays submitted. The two prizes, each for $200.00 were to provide initial tuition for the winners in any college of their choice. George N. Leighton won one of the awards.

Early in the winter of 1936, he submitted an application for admission to Howard University; and although his application for a scholarship was rejected, he received a letter from Mr. F. D. Wilkinson, then Registrar to Howard University, informing him that he could attend Howard University as an Unclassified Student. As a postscript to the letter, Mr. Wilkinson stated that if Mr. Leighton proved he could do college work without having attended a high school, Howard would make him a candidate for a degree.

In September of 1936, assisted by the essay scholarship award of $200.00 which had been remitted in part to Howard University to pay for the first semester's tuition, and on the authority of the letter written by Mr. Wilkinson, George Leighton began his studies at Howard University.

At the end of the first semester examinations, because of excellent scholarship, Mr. Leighton made the Dean's Honor Roll. He remained on that roll through four years of college studies. On making the Dean's Honor Roll, Mr. Leighton approached Mr. Wilkinson and reminded him of the postscript to his 1936 letter. As a consequence of the grades earned, he was made a candidate for a degree in the College of Liberal Arts. He was graduated in 1940, *magna cum laude*.

Early in 1940, George Leighton wrote to James McCauley Landis, then Dean of the Harvard Law School. Because of his scholastic record at Howard University, Dean Landis awarded Mr. Leighton a first year scholarship to Harvard Law School. He enrolled in Harvard Law School, September 1940; but in March of 1942, his law studies were interrupted by World War II. On March 10, 1942, he was ordered to active duty and reported to Fort Benning, Georgia, where he attended the 206th Basic Class for Reserve Officers. On June 18, 1942, he was ordered to report to the 93rd Infantry Division at Fort Huachuca, Arizona. He remained with the 93rd Division throughout its service in the Pacific Theatre. In October of 1945, Leighton was relieved from active duty as a Captain in the Infantry. He returned to Harvard Law School on October 24, 1945 and was graduated on October 4, 1946.

PROFESSIONAL AND CIVIC EXPERIENCE

Before completion of his studies at Harvard Law School, Leighton took examinations for the Massachusetts Bar, passed and became a Massachusetts lawyer on October 3, 1946. On October 14, 1946, he arrived in Chicago and was admitted to the Bar of the State of Illinois on January 20, 1947.

From October, 1946 to December 8, 1964, George Leighton was active in civic affairs of Chicago. During 1947–48, he was president of the Chicago Chapter of the Howard University Alumni Association. From 1947–1953, he was a member and the Chairman of the Legal Redress Committee of the Chicago Branch, NAACP. During his chairmanship of the Committee, Leighton was general counsel in the Cicero Riot Case in which he represented Harvey Clark and his family.

Between 1952–53, for two terms, he was President of the Chicago Branch, NAACP; and during the last year of his presidency, he was General Counsel in the Trumbull Park Case representing the Donald Howard family. During the period 1962 to 1964, Leighton again became active in the Chicago Branch, NAACP and served as Chairman of its Political Action Committee and the Legal Redress Committee. In 1964 he became a Life Member in the National Association for the Advancement of Colored People.

In addition to these civic activities, Judge Leighton has been: (a) member of the Advisory Committee of the Illinois Division, American Civil Liberties Union; (b) member of the Advisory Committee, Independent Voters of Illinois (IVI); (c) Chairman of the Legislative Committee, Cosmopolitan Chamber of Commerce; (d) member of the Drafting Sub-Committee of the Citizens Committee for the Adoption of the Fair Employment for the Adoption of an Open Occupancy Statute; (f) member of the Mayor's Citizens Committee on City Revenue and Expenditures (1963); and (g) from December 1961 to April 1970, Judge Leighton was a member of the Public Review Board, UAW.

Presently he is; (1) member of the Board of Directors, Grant Hospital, Chicago, Illinois; (2) member of The Council, National Harvard Law School Associations; (3) member of the Mayor's Committee on Organized Crime Legislation; (4) member of the Board of Directors of the John Howard Association; (5) member of the Board of Directors of the Chicago Tuberculois Institute; and (6) member of the Board of Directors of the Adult Education Council of the City of Chicago; (7) member of the Chicago Committee on Urban Opportunity.

In 1951, together with the late Loring B. Moore, George Leighton organized the law firm, Moore, Ming & Leighton, predecessor to the law firms of McCoy, Ming & Leighton (1959–1964) and McCoy, Ming & Black, 123 West Madison Street. Among the partners in the firm were Fleetwood M. McCoy, William R. Ming, Jr., Walter K. Black and Chauncel Eskridge. From 1953 until the present, the law office has occupied the third floor of the Joel Hunter Building, Chicago, Illinois, and has been considered by the profession to be one of the largest predominantly Black law firms in the United States. Leighton withdrew from the firm in November 1964 when he was elected a judge of the Circuit Court of Cook County.

During his law practice, Mr. Leighton was active in cases that attracted national attention. The first and perhaps the most important of these was the Boswell Amendment Case in which as counsel for ten Negro citizens of Mobile, Alabama, he succeeded in obtaining a judgment declaring the amendment unconstitutional. The opinion of the three judge federal court is reported in *Davis v. Schnell*, 51 F. Supp. 872, and was affirmed by the Supreme Court of the United States. Sun nom *Schnell v. Davis*, 336 U.S. 933, 69 S. Ct. 749.

In 1950, Leighton represented Negro parents of school children in Harrisburg, Illinois in a proceeding which he filed in the United States District Court for the Southern District of Illinois. An injunction was obtained ordering desegregation of the public schools of Harrisburg, Illinois.

In the years before 1964, the cases of importance handled by Mr. Leighton involved convictions of men whose constitutional rights were infringed in the trial court proceedings. The most famous of these cases was that of Earl Howard Pugh who spent seventeen years of penitentiary imprisonment before he was discharged in a proceeding instituted in the Criminal Court of Cook County. In 1953, the Illinois General Assembly passed a bill which authorized the payment of $51,000.00 to Pugh. The story of the case was published in Ebony Magazine, October, 1955. Other cases of constitutional importance were *Napue v. Illinois*, 358 U.S. 919;

Ciucci v. Illinois, 353 U.S. 982; *Townsend v. Sain*, 372 U.S. 293 and *Goldsby v. Harpole*, 263 F. 2d 71; *Lloyd Eldon Miller, Jr. v. Pate*. 226 F. Supp. 541.

During his professional career, Leighton represented plaintiffs and defendants in civil cases of every kind. He represented defendants in more than 200 criminal trials, bench and jury. During this same period he handled more than 175 appeals or reviews, civil and criminal, in state and federal courts.

In addition to these cases, George N. Leighton attracted professional attention of the Bench and Bar in his handling of the habeas corpus proceedings of *Llyod Eldon Miller, Jr. v. Pate*, a case in which a death sentence imposed in Hancock County, Illinois in 1956 was set aside by the United States District Court for the Northern District of Illinois. This case was the subject of an article in the January 24, 1964 issue of Saturday Evening Post. Lloyd Miller was released from incarceration after the decision of the United States Supreme Court reported in 87 S. Ct. 785.

In July, 1963, Leighton attracted nationwide attention when he represented a well known but unpopular plaintiff in *Sam Giancana v. Marlin W. Johnson*, United States District Court, Northern District of Illinois. This case resulted in a rarely granted injunction restraining the Federal Bureau of Investigation from alleged invasions of the plaintiff's civil liberties. One unexpected consequence was the imposition of a fine upon an agent of the Federal Bureau of Investigation, a fine later upheld in the United States Court of Appeals (June 30, 1964).

BAR ASSOCIATION ACTIVITIES

During his years at the Bar, Judge Leighton has been a member of the American Bar Association, the Inter-American Bar Association, the National Bar Association, the Massachusetts Bar Association, the Illinois State Bar Association, the Cook County Bar Association, the National Association of Defense Lawyers in Criminal Cases, and the Chicago Bar Association.

He is a member of several committees of the American Bar Association: Rights and Responsibilities, Judicial Administration, Legal Education. In 1963–64, Judge Leighton served as the Chairman of the Bill of Rights Committee of the Illinois State Bar Association.

He served on committees of the Cook County Bar Association. He has been active in the National Bar Association and has been a member of several of its panels at its national conventions in various parts of the United States.

In the Chicago Bar Association, Leighton was the first member of his race to be elected to its Board of Managers. After serving two years, he was honored with election as Librarian, a position to which he was reelected for two consecutive terms following his original term in that office.

Until November 1963, Leighton served as a Commissioner of the Supreme Court of Illinois on the Committee on Character and Fitness for the First Appellate District of the State of Illinois. In 1961 he served as Chairman of the Committee. As a Commissioner he sat by authority of the Supreme Court of the State of Illinois to hear and pass upon character qualifications of applicants to the Illinois Bar. As a member of the Board of Managers of the Chicago Bar Association, Leighton served as a Commissioner of the Supreme Court of Illinois and a member of the Chicago Bar Association Grievance Committee on which Committee he sat by the authority of the Supreme Court of Illinois hearing cases involving complaints against members of the Bar.

Between 1958 and 1963, Leighton was one of 50 lawyers and judges of the Joint Illinois and Chicago Bar Association Committee for adoption of the Amended Judicial Article. During that same period he was a member of the Joint Chicago Bar and Illinois State Bar Association Committee to revise the Criminal Code. He was member of the Drafting Sub-Committee that prepared the Substantive provisions of the 1961 Criminal Code. He also was a member of the Drafting Sub-Committee that prepared the Code of Criminal Procedure of 1963, being responsible for the appellate sections of the Code which is now the law of Illinois.

Judge Leighton is presently a member of the Criminal Law and Legal Education Committees of the Chicago Bar Association; and for several years, he was a member of its important Judicial Candidates Committee.

In addition to his activities in the respective bar associations of which Leighton has been a member, he has written and had published articles on legal subjects: Leighton, "In Rem Powers of Courts of Equity," 5 National Bar Jour. 1 (March, 1947); Leighton, "Post-Trial Procedures in an Illinois Criminal Case." 47 Ill. Bar Jour. 253 (1958); Leighton, "Post-Conviction Remedies in Illinois Criminal Law," Illinois Law Forum (1967); Leighton, "Federal Supremacy and Federal Habeas Corpus," St. Louis Univ. Law Journal (May, 1967); Leighton, "Pragmatics of Procedure in Illinois Criminal Appeals," 1 John Marshall J. of P. and P. 167 (1968); Leighton, "Elements of Equitable Relief," 2 John Marshall J. of P. and P. 230 (1969);

POLITICAL ACTIVITIES

George N. Leighton has always been a Democrat.

From 1947 to 1952, he served under the late Christopher C. Wimbish as President of the 3rd Ward Regular Democratic Organization. As President of the 3rd Ward, Leighton was active in one of the most influential and powerful ward organizations of the Democratic Party.

From 1947 to 1964, Leighton served on citizens committees for the election of Mayor Richard J. Daley and for the election of every important Democratic candidate in Cook County and the State of Illinois. Leighton was active in the campaign to elect John F. Kennedy as President of the United States.

In 1957, Leighton moved to 8400 South Prairie Avenue. It was then part of the 19th Ward under Ward Committeeman John Duffy. He became active in the 19th Ward Regular Democratic Organization; and when the present 21st Ward was created by re-districting, took an active part in the organization of the Democratic Party in the 21st Ward. Leighton was campaign manager for Melvin McNairy, candidate for Alderman for the 21st Ward in the 1963 campaign. He was active in the present organization of the 21st Ward under the leadership of Ward Committeeman Joseph J. Robichaux as Vice President of the 21st Ward Regular Democratic Organization. Because of his position as a member of the Illinois Judiciary, Judge Leighton has withdrawn as an officer but remains a member of the 21st Ward Regular Democratic Organization.

POSITIONS, ELECTED OR APPOINTED

Geroge N. Leighton served as an Assistant Attorney General of the State of Illinois, 1949–1951. From 1960 to 1964, he was a Master in Chancery of the Circuit Court of Cook County. He has been, by appointment, a member of the Public Review Board, UAW, AFL–CIO on which he sat with six other members as final Arbitrators of internal controversies in one of the largest unions in the world. In November 1964, Leighton was elected to a six-year term as Judge of the Circuit Court of Cook County. In July, 1969 the Supreme Court of Illinois assigned Judge Leighton to sit as an Appellate Court Judge of the Appellate Court of Illinois, First District.

On February 12, 1965, Judge Leighton was appointed an Instructor in Criminal Law and Procedure at the John Marshall Law School in Chicago, Illinois. Since then, Judge Leighton has played a part in the preparation of more than 400 students for the practice of law. In 1966, he originated a seminar in criminal appeals in which he taught third-year students the techniques in the handling of criminal cases on review.

In February 1969, Judge Leighton was elected to a four-year term as a member of the Council of the National Harvard Law School Associations.

At its 1970 meeting in St. Louis, Missouri, the Section of Legal Education and Admissions to the Bar of the American Bar Association elected Judge Leighton to a four-year term and member of the Council of the Section. This is the official accrediting agency for law schools in the United States. The task of this Council is to inspect American Law Schools and superintend the Standards of Legal Education in the United States.

JUDICIAL CAREER

Judge Leighton was elected to the Circuit Court of Cook County on November 4, 1964. He was installed in office on December 7, 1964. From December 8, 1964 to December 1, 1965, he served in the Criminal Division. On December 1, 1965, Judge Leighton was assigned to the Law Jury Division in which he served until September 7, 1967. He then was assigned to the Chancery Division as one of seven Chancellors of the Circuit Court. On July 18, 1969, Judge Leighton was assigned by the Supreme Court of Illinois to sit on the Appellate Court, First District, as Appellate Judge. His Written opinions are to be found beginning in 256 N.E. 2d 56 and is 119 Ill. App. 2d 322.

During the time he has served on the judiciary, Judge Leighton has taken an active interest in post-election programs aimed at education of judges. On a fellowship, he attended the July 1965 session of the Conference of State Trial Judges held in the University of Colorado, Boulder, Colorado. Throughout his judicial career, Judge Leighton has served in a number of seminars for the continued education of Illinois circuit and associate circuit judges.

HONORS AND AWARDS

On May 13, 1961, George N. Leighton was given the Civil Liberties Award of the Illinois Division, American Civil Liberties Union for his services in ". . . repeatedly acting as counsel at great personal sacrifice, for those deprived of due process." As a member of the Joint Illinois State and Chicago Bar Associations Committee to Revise the Criminal Code, Leighton received the 1961 Guy E. Reed Award of the Citizens of Greater Chicago and the 1964 John Howard Award.

On April 7, 1964, the Chicago Junior Association of Commerce and Industry selected Leighton as Chicagoan of the Year in Law and Judiciary ". . . in appreciation of exceptional professional and civic achievements, recognizing their significance to the community, state and nation."

The Cook County Bar Association named George Leighton as the recipient of its 1964 Richard E. Westbrooks Award "For distinguished achievement and outstanding contribution to the legal profession."

On June 7, 1964, Elmhurst College, Elmhurst, Illinois, conferred on Leighton the Honorary Degree of Doctor of Laws ". . . in recognition of distinguished service to the legal profession, the community and the church."

In May 1968, Judge Leighton, by selection, became a Fellow of the American Bar Foundation from the State of Illinois. This honor is restricted to a selected number of lawyers and judges from each of the fifty states and the District of Columbia.

On April 28, 1972, Gamma Chapter of Phi Beta Kappa at Howard University admitted Judge Leighton to its distinguished membership.

On June 11, 1973, the John Marshall Law School conferred on Judge Leighton an Honorary Degree of Doctor of Laws.

Judge Leighton was born and reared a Catholic. He and his family belong to the Congregation of Saint Clotilde, 84th and Calumet Avenue, Chicago, where he has served on the Parish Council and the Parish School Board. He is married to the former Virginia Berry Quivers of Washington, D.C. They have two daughters; Mrs. Virginia Anne Belyn of St. Croix, Virgin Islands; Mrs. Barbara L. Chester of Chicago, Illinois; three grandchildren: Stephen, David and Juliana Belyn.

MS. BEVERLY FIORELLA INSTALLED

Mr. PERCY. Mr. President, it is with pleasure that I call to the attention of my colleagues today an accomplished and distinguished Illinoisan, Ms. Beverly Fiorella. This Illinois resident and public servant is to be installed as president of the American Society for Medical Technology—ASMT. On June 21, 1976, this honor is to be bestowed by 27,000 laboratory professionals during their 44th annual meeting in Chicago.

Ms. Fiorella, who is an associate professor of medical laboratory sciences at the University of Illinois School of Associated Medical Sciences, also serves as section head for immunohematology and assistant director for curriculum in the medical laboratory sciences. Her extensive university activities have also included many committee memberships as well as chairmanships within the School of Associated Medical Sciences. Ms. Fiorella has also served her State and local Chicago professional societies as an officer and active member of many organizations. She is presently a member of the advisory panel on national health insurance, a consultant of the Illinois State Department of Public Health and vice president of the Chicagoland Blood Bank Society.

Mr. President, I know that all of my colleagues will want to join in extending heartiest congratulations to Ms. Fiorella and wish her a most productive year as president of the American Society for Medical Technology.

ARAB BOYCOTT LEGISLATION

Mr. STEVENSON. Mr. President, pending on the Senate Calendar is a bill which I, with the support of a number of my colleagues, have sponsored to deal with the Arab boycott against Israel and its domestic economic and social consequences. The measure, S. 3084, would force public disclosure of American participation in the boycott and prohibit cooperation with foreign attempts to interfere with internal American affairs. The bill was approved as S. 953 by the Banking Committee last February and placed on the Senate Calendar. It was again approved by the Banking Committee in May and incorporated in S. 3084. The bill now awaits Senate action.

A recent editorial in the Washington Post states the case for early congressional action well. It points out that the domestic impact of the Arab boycott is large and growing: Hundreds of millions of dollars in American exports are shipped in compliance with the boycott; and as trade opportunities in the Middle East expand, the pressure to comply with the boycott will intensify.

The time to "act decisively," as the Washington Post, Arthur Burns, and others have urged, is now. Growing numbers of businessmen and other responsible Americans support enactment of legislation to end the power of foreign governments to interfere with the rights of U.S. citizens and force behavior which violates basic American principles. In this emotion-laden area, responsible legislation which protects the rights of American citizens while advancing the common interest in reducing tensions in the Middle East, is essential. It is my hope that S. 3084 will receive early Senate action.

Mr. President, I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

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

[From the Washington Post, June 12, 1976]

ARAB BOYCOTT VICTIMS: AMERICANS

The specific dimensions of the Arab boycott—in fact, a boycott of American firms that deal with or in Israel or whose officers are identified as "Zionists" or simply as Jews—are becoming known for the first time. One House subcommittee has established that in 1974–75, 637 American exporters sold at least $352 million and perhaps as much as $781 million in goods and services under boycott conditions. Another subcommittee found that in the four months running from last December, one bank alone received and executed 824 Arab letters of credit, worth $41 million, containing boycott clauses. In one of a number of such cases, General Tire has been accused (by the SEC) of paying a $150,000 commission to get off the boycott list. Although the Justice Department has filed an antitrust suit against Bechtel Corporation for boycotting another American firm in order to fulfill a boycott requirement, Bechtel is said to be notifying subcontractors that Israel goods or materials shipped on blacklisted vessels cannot be used in a $20 billion Saudi seaport project.

So the Arab boycott is real. It is immense, though sometimes capricious. It seems to be growing as business prospects grow.

What should be done? The Administration believes its own current quiet policies suffice. Further legislation would be "counterproductive," Treasury Secretary William Simon argued the other day. But it is precisely during the last two-year period of discreet administration policy that boycott practices have spread to the point where hundreds of millions of dollars of business a year are affected and where Americans are forced to trample on their own laws and values and each other as they pursue Arab business. It is difficult to imagine a policy that has been more discredited.

The Arabs' *primary* boycott of Israel is their own affair. The need is overwhelming, however, for legislation addressing the *secondary* boycott, by which Arabs try to make American companies their instruments in boycotting Israel; and against the *tertiary* boycott, by which Arabs try to make American firms boycott other American firms that deal with Israel or that have Zionist/Jewish officers. Will the Arabs take their business elsewhere? No doubt some will, but since Arabs want American business ties not just for the goods and services but for the broad political ties that come with them, we are confident that most Arabs will decide otherwise. They are not so blind to their own self-interests as apologists for the boycott tend to claim.

The antiboycott principle has been embodied in American law for 11 year. "It is the policy of the United States," says the Export Administration Act, to "oppose" boycotts imposed against friendly countries, and to "encourage and request" American firms not to take part. What is now involved is to turn that eminently sound principle into actual practice. The State Department has had other—political—matters foremost in mind. The Treasury Department thinks first of dollars. But an increasing number of companies favor legislation that would make it illegal to participate in a practice that—even critics of the legislative approach agree—is fundamentally offensive and un-American. Federal Reserve Board Chairman Arthur Burns stated the other day that it is no longer enough merely to "encourage and request" noncompliance with boycott requests. "It is unjust," he said, "to expect some banks to suffer competitive penalties for responding affirmatively to the spirit of U.S. policy, while others profit by ignoring this policy." He urged Congress to "act decisively." It should.

NEW SHIP CONSTRUCTION AND OVERHAUL IN PUBLIC AND PRIVATE YARDS

Mr. THURMOND. Mr. President, it has come to my attention today that the Newport News Shipbuilding and Dry Dock Co. in Norfolk, Va., has advised the Navy of its unwillingness to continue some Navy construction presently under contract, as well as its intention to no longer accept any business from the Navy.

While I would hope that the Navy and this shipyard can reach some agreement enabling the Navy and the Government to continue utilizing these fine facilities, I would urge at the same time that we accelerate preparations to transfer the Navy business at Norfolk.

The Navy should accelerate forthwith its efforts to prepare other shipyards, both private and public, to undertake the business which Newport News no longer desires. The high cost of ships and the vital requirement for more vessels in the Navy will not permit the Defense Department to allow itself to be at the mercy of any shipyard contractor.

Fortunately, there are excellent private shipyards in the State of Washington and several on the east coast which could undertake construction of the required Navy ships. Furthermore, no matter how the Newport News issue may be resolved, the Navy should undertake to move more overhaul work from private yards to public yards.

Of the eight Naval shipyards in this Nation, six have a nuclear capability. These shipyards have demonstrated ability to overhaul very complex Navy vessels and their capacity should be used to the fullest extent feasible, both from an economic and scheduling viewpoint.

At present, Newport News as well as other crowded shipyards, are in the overhaul business. It would appear from the Newport News situation that the private yards should be targeted more for new ship construction because of our shortage of shipyard capacity.

If Newport News is to stop building Navy ships we should begin immediately to build up the yards of other private contractors who are willing to accept the Navy business. Furthermore, the Navy and the Defense Department should seriously consider outright construction of Navy ships and submarines in public yards. Deputy Secretary of Defense Clements advised the Armed Services Committee this year that nuclear attack submarines could be constructed in some of our public yards.

Presently we have shipyards in Portsmouth, Maine; Philadephia, Pa.; Norfolk, Va.; Charleston, S.C.; North Beach and Mare Island, Calif.; Puget Sound, Wash.; and at Pearl Harbor. All of these shipyards and possibly the addition of others will be needed if our Navy is to meet the threat of the expanding all-ocean Soviet presence.

Mr. President, I am transmitting my concern on this issue to the President of the United States, Secretary of Defense, Secretary of the Navy, Chief of Naval Operations, and key Members of the Congress. If the Newport News Shipbuilding Co. no longer desires Navy work, then we need to begin immediately to identify and meet the resultant problems and commit ourselves to the necessary expenditures to assure our Navy continues to be second to none.

NEW HAMPSHIREMEN'S ROLE IN THE BATTLE OF BUNKER HILL

Mr. McINTYRE. Mr. President, today is the 200th anniversary of the Battle of Bunker Hill, and observance of this historic event sharply points up how little understood—yes, and how little appreciated—has been New Hampshire's role in the War of Independence.

For two centuries that impressive contribution has been largely ignored, for historians have focused most of their attention on what happened in Massachusetts, in Pennsylvania or in Virginia during the Revolutionary years.

Fortunately, Mr. President, the neglect of New Hampshire in that stirring story is now being remedied, and most appropriately as we celebrate our Bicentennial Year.

In cooperation with the New Hampshire American Revolution Bicentennial Commission, New Hampshire Profiles, a highly regarded publication in our State, has published a book titled: "New Hampshire Years of Revolution 1774–1783."

This book, superbly edited by Peter E. Randall, beautifully printed and lavishly illustrated, not only enumerates the accomplishment of New Hampshire's fighting men, but also sets forth the part that New Hampshire played in the economics of victory.

For the Bicentennial commemoration of the Battle of Bunker Hill, I ask unanimous consent to have printed in the RECORD a chapter from this book that dramatically describes what the presence of New Hampshire fighting men meant on that occasion.

The chapter is simply titled "Bunker Hill," and it was written by Charles H. Eastman, Jr., and Anne M. Eastman.

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

BUNKER HILL

(By Charles W. Eastman, Jr. and Anne M. Eastman)

The New Hampshire troops had been in the area around Boston since the day after the confrontation at Lexington and Concord. Although many had returned to their homes when they realized the fighting was over, greater numbers had "stood fast" to be formed into loosely defined regiments under their elected leaders—John Stark, James Reed and Enoch Poor.

Now, in June of 1775, this motley collection of "rabble in arms," loosely disciplined, ill equipped and unsure of their fighting capabilities, was about to confront the cream of the British fighting forces.

Col. Stark had been given command of the First New Hampshire Regiment, while James Reed and Enoch Poor led the Second and Third. Stark, by virtue of both his reputation and personality, commanded 12 companies. Reed and Poor commanded ten each, but Poor and his regiment remained in New Hampshire.

About six p.m. in the evening of June 16, troops from Massachusetts and Connecticut marched from Cambridge to occupy Breeds Hill, overlooking Boston harbor. Bunker Hill had been their destination according to orders, but the other hill seemed to offer a better position for fighting, and it was selected as the site of fortifications.

Under the directions of Col. William Prescott, the soldiers constructed a redan or arrow-shaped redoubt. They finished shortly before dawn and had rested only a short time before their work was discovered by the British, one of whose ships, HMS *Lively*, opened fire from the harbor.

With the daylight, Prescott could see that both his flanks were unprotected and the soldiers began working again, especially on the left. At least one man was killed by the naval firing, and others tired and hungry began to have apprehensions about their fate.

Behind the redoubt, the rebel position was rimmed by a 600-foot rail fence which sloped toward the Mystic River. It was defended by Capt. Knowlton and 200 Connecticut militia. In the empty space between the redoubt and the fence, six pieces of artillery had been placed, but were rendered useless by lack of proper ammunition. Knowlton's men quickly did what they could. They gathered hay, dismantling the neat cocks and piles of the first mowing of the season. With this they "upholstered" the fence as best they could.

Prescott was sensitive to the tenuousness of his position. He sent a messenger to Gen. Ward for much needed supplies and reinforcements. Shortly after noon, a contingent of New Hampshire troops from Stark's regiment arrived under Lt. Col. Wyman. They were detailed to fill in gaps in the redoubt at the top of the hill. New Hampshire regiments under the commands of Col. Stark and Col. Reed were also summoned from Medford.

As the New Hampshire troops approached Charlestown Neck, they encountered two regiments which had been halted by bar and chain shot, accurately delivered by the guns of the British ships and barges. At this point, Maj. Andrew McClary requested that the New Hampshire regiments be allowed to pass.

Capt. Henry Dearborn's company was first in the order of march. He was walking beside Stark and suggested they quicken the pace. Stark fixed him with a steely gaze and replied, "Dearborn, one fresh man in action is worth ten fatigued ones," and continued his slow, deliberate gait.

One of the regiments which had been halted was Reed's. It immediately fell in behind Stark's troops, with Lt. Col. Gilman in command, Reed being away sick. The soldiers followed the open road up over the grassy knoll of Bunker Hill, where they encountered Israel Putnam and his Connecticut troops. Upon reaching the top of the hill, Stark issued orders to take up one of two fences which ran parallel with the river and to stuff hay between the rails. He also ordered the construction of a low, short, stone wall between the end of the rail fense and the edge of the Mystic River. When Reed's men arrived, they took positions to Knowlton's left and began to fortify the fence in a similar manner. Stark positioned his troops to Reed's left strengthening Prescott's left flank.

On the British side of the river, the decision to mount a frontal assault in the "best traditions of the European battlefield" had already been made. It was assumed, of course, that the rebel troops consisted universally of "scroundrels" and "cowards" who would flee after the first bayonet charge. The logistics of mounting an amphibious assault were tricky, however, so although the decision was made quickly, considerable time elapsed between it and the actual attack.

From the vantage point of Bunker Hill, raw American troops were treated to an unfolding diorama as 28 barges of disciplined figures arrayed in brilliant color glided rhythmically toward Morton's Point. Flashing oars, polished brass field pieces, oiled metal, gleaming match boxes reflected the warm June sun. In command of this awesome symmetry was Gen. Howe. On landing, he immediately sent back for additional troops and allowed his men to break ranks for a late lunch.

In the American camp, raw recruits faced the coming reality of battle. Bells began to peal in Charlestown and drums beat in assembly and alarm. Col. Stark saw his opportunity to deliver a ". . . short animated address" and was rewarded with three rousing cheers for courage.

By now, the British had begun to use the incendiary cannon balls. Charlestown was in flames! It was mid-afternoon and the moment of truth had come for both sides. The Patriots—many dirty, hungry and tired, and all tense and expectant—awaited the onslaught of the famed British war machine.

Along the beach and through the swamp on their left, Howe's 5th, 2nd and Grenadiers moved forward in disciplined ranks. The assault was spearheaded by Gen. Pigot with the 38th, 43rd and Grenadiers, and on the other flank the 47th and the Royal Marines. As cannons ceased firing, rebels peering over the breastwork could hear hardware clanking against marching legs, the crackling of uncontrolled fires in Charlestown and the pounding of their own hearts and temples. Muffled orders to fire startled many back to reality and the knowledge that the enemy was now less than 50 feet away. The order to fire rang out.

The murderous effect of the rebels' fusillade along the Mystic River front is well described by Richard M. Ketchum in his book, Decisive Day: The Battle for Bunker Hill (Doubleday):

"A row of dull musket barrels leveled along the stone wall, a nasal New England voice twanged and the wall disappeared in a sheet of flame and oily black smoke. The blurt of fire tore apart the leading ranks of Fuseliers and as the rows behind closed up they were shattered by the violent hail of bullets. Officers fell, men spun around and dropped headlong into the shallow water, and the column stopped, recoiled, then came on again. The King's own regiment showing through the broken Fuseliers clambering over the dead and wounded only to be met with that withering fire from the wall. Officers' voices shouted hoarsely through the din, ordering the men forward, but with each advance the men in the lead simply melted away, falling grotesquely and piling up the

awful carnage on the narrow beach until there was nothing to do but turn back."

The British stormed again, but with that attempt came another deadly failure.

Howe was, by this time, almost entirely bereft of officers. The 35th regiment, for example, had only six men left, and no leadership. He looked for an opening and decided to attack the space between the redoubt and the fence, using 400 reinforcements recently arrived from Boston. The rebels tried to repulse the attack by firing nails, having used up their supply of powder and shot. They even threw rocks in an attempt to dislodge the long rows of Brown Besses which marched steadily onward. Finally, they were forced to retreat. Knowlton, Stark and Reed protected the withdrawal, sustaining heavier losses than before. The pullback was orderly, with only 31 Colonials falling into the hands of the British. By 5:30 the battle for Bunker Hill was over.

One thousand fifty-four of the 2300 British who had greeted the day with confidence and whole bodies would never do so again. On the American side, estimates have varied. George Washington, for example, has left us the number 450 dead, missing and wounded. New Hampshire regiments reported 74 wounded and 19 missing. In any event, it was a Pyrrhic victory for the British, for on that afternoon something died in the cream of the British soldiery.

Much has been written of the heroism demonstrated by the men of Massachusetts at the Battle for Bunker Hill, but New Hampshire's role in that great Patriot undertaking has been minimized or at least under-publicized. More than 100 men from New Hampshire were in Col. Prescott's Massachusetts Regiment, for example, including a company of 59 men under Capt. Dow from Hollis. The manifest of Col. Reed's regiment dated June 14, 1775, two days before the battle, lists 637 men of whom 448 were fit for duty. A similar document dated July 2, 1775 indicates that Col. Stark drew rations for 679 men. Adding the 60 from Stark's regiment who fell at Bunker Hill, we arrive at the impressive total of 739. While we probably will never know the exact number of New Hampshiremen who served at Bunker Hill, it is reasonable to assume the figure is somewhere in the neighborhood of 1000–1300, virtually all the men New Hampshire had available. In any event, the New Hampshire contingent outnumbered the combined totals of Massachusetts and Connecticut.

The Rev. Increase N. Tarbox, in his life of Gen. Putnam, wrote, "We have the full conviction that the time will come when the whole nation will give the honors of the battle of Bunker Hill largely to the common soldiers of New Hampshire who more than any other men, fought it. . . ."

FEA PROPOSALS ON ENERGY ACTIONS 3 AND 4

Mr. JOHNSTON. Mr. President, the Senate Committee on Interior and Insular Affairs has scheduled a hearing on Monday, June 21, on the Federal Energy Administration's proposals—energy actions numbered 3 and 4—to remove price and allocation controls from home heating oil, diesel fuel, and other middle distillate refined petroleum products. The hearing will commence at 10 a.m. in room 3110 of the Dirksen Senate Office Building. The committee will receive the testimony of the FEA and selected private witnesses, and statements for the record. I understand that hearings on these proposals will also be held in the Subcommittee on Energy and Power of the House Committee on Interstate and Foreign Commerce on Tuesday, June 22.

These FEA proposals have been submitted to the Congress under procedures specified in section 12(g) of the Emergency Petroleum Allocation Act and section 551 of the Energy Policy and Conservation Act. Unless one House of Congress adopts a resolution of disapproval prior to mid-night on June 30, 1976, the FEA proposals will become effective.

Mr. President, Members of the Congress and the public should have access to the most complete set of views and information available on these FEA proposals. I hope that the Interior Committee hearing will facilitate the compilation of this record. In addition, I wish to call to the attention of my colleagues the fact that the FEA letters of transmittal to the Senate and the administration's documents describing energy actions numbered 3 and 4 were inserted in the CONGRESSIONAL RECORD on June 15 by Senator GLENN at pages 18376–18381.

SOLAR ENERGY IS A VIABLE AND AVAILABLE ENERGY SOURCE

Mr. RIBICOFF. Mr. President, as we consider the various energy alternatives available to us, it would be to our advantage to focus greater attention on not only the potential of solar energy, but its practical application at the present time. There seem to be a number of misconceptions about solar power, but the fact exists that solar power is not only viable, but is currently being implemented in many fashions. Solar water heating, for example, is economically competitive in most regions of the country right now. Solar energy is one of the cleanest sources of power and the power of the Sun's rays is virtually inexhaustible and available at almost every point on Earth.

Unfortunately, sufficient funds and attention have not been given to research and development in the area of solar power. There has, for example, been some reluctance on the administration's part to actively pursue solar energy development and, earlier this year, a ranking ERDA official charged the Ford administration with failing to give solar-energy development the priority it deserves. John Teem, the former head of ERDA's solar program, said that solar work in heating and cooling of buildings and in agricultural and industrial processes is scientifically advanced enough so that demonstration programs can proceed at a pace much faster than that outlined in the administration's budget request—a request which was the result of substantial cutting by OMB.

In the absence of substantive action by the executive branch, the Congress is taking some important initiatives in the field of solar energy. A number of pending measures encourage the development of technology in the field by providing the financial resources necessary to conduct appropriate research and development. Many of these bills also mandate that certain Federal departments and agencies accelerate their activity in the solar energy sector. In the Tax Reform Act which will be debated later this week provision is made for a refundable tax credit for expenses of installing solar or geothermal energy equipment in private residences and for an extension of the investment tax credit to solar equipment installed in new and existing business or commercial structures.

A recent issue of New York Magazine carries a very readable and timely article on the use of solar energy. This well-written article discusses four primary misconceptions about solar energy and very ably refutes them. Because of the importance of further research, development, and demonstration in deriving energy from the Sun and in utilizing this important energy source to the greatest extent possible, I would like to share this article with our colleagues. I ask unanimous consent to have printed in the RECORD this very informative article from the May 31 New York Magazine.

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

SOLAR ENERGY NOW: WHY AREN'T WE USING IT MORE?

(By Andrew Tobias)

I don't know if it's true about the woman who spread aluminum foil all around her sun chaise and baked herself to death, like a potato, but the general principle is compelling. The sun is a furnace of almost unimaginable proportions. Enough energy in the form of sunlight falls on New York State in one day—if we could collect it all—to power the entire country for a week. (Enough falls on California to power the whole world!) And when I was in Huntsville, Alabama, attending the First Annual Alabama Solar Energy Products Show—an eleven-exhibit affair all too indicative of the fledgling state of the solar-energy industry—I actually did see a man hold a board up in front of a twelve-foot concave reflector he had built in his garage, and watched as the board almost instantly burst into flames. (Then he held up a Coke can, which melted.) The temperature at the focal point of his $200 Mylar-and-bicycle-chain contraption was around 2,000 degrees Fahrenheit. Focus it on a tank of water and you would soon have steam to run a turbine to generate electricity to power your home.

Now, the natural organization for a story like this would be first to demonstrate the overwhelming reasons why solar—not nuclear—energy must become the energy of the future, and then to catalog the ways you and I can use solar energy *right now* to save money and, at the same time, conserve fossil fuels and cut down on pollution. But it is only natural to be more interested in saving money than in saving the world, so I've reversed the order. For now, suffice it to say that when Dr. Edward Teller, "father of the hydrogen bomb and longtime advocate of nuclear-power expansion," as the Los Angeles *Times* characterized him, visited Huntsville a couple of weeks after I did last month, he said that the *long*-term answer to our energy needs lies in solar, not nuclear, energy development, and that this is where our first priority ought to be.

The sun's rays are free, clean, and virtually inexhaustible. The stuff of nuclear energy—both fuels and wastes—which we are now gearing up to produce on a truly grand scale could hardly be more hazardous.

Along with the technological and economic problems standing between 1976 and the "solar age" are four popular misconceptions.

MISCONCEPTION 1

Solar energy is in its infancy, highly technological, unproven . . . wait twenty years.

In fact, some solar-energy applications are simple, reliable, and economically compelling right now.

Anyone who heats a swimming pool—and

more than half a million Americans do—ought to consider installing a solar water heater. Today. A different kind of solar installation makes sense for hot-water-heating. Today. Home space-heating is trickier, but anyone who pays his own heating bills—and certainly anyone planning to build a new house—should read on. Solar-powered air conditioning is trickier still, but not far off.

Upwards of 250 companies nationwide are involved in solar-energy development, ranging from one-man backyard operations to major corporations like PPG Industries, Revere Copper & Brass, Owens-Illinois, and subsidiaries of Mobil and Exxon. Happily, this is an industry ideally suited to the small-business man, with lots of room for ingenuity and competition. Fafco, Inc., a Menlo Park, California, firm with a growing dealership around the country, is installing its solar pool-heating systems at the rate of 6,000 a year—profitably. In Japan, 160,000 solar water heaters were sold in 1974; Hitachi is now offering much the same rudimentary heater, in kit form, for $359 here. Champion Home Builders, of Dryden, Michigan, is beginning to manufacture solar furnaces in nine of its plants, and plans to market them through its 4,000-odd mobile-home dealers. Several hundred such "furnaces"—insulated rock piles that sit beneath solar collectors—have already been manufactured and sold by licensees. Arthur D. Little, the consulting firm, estimates sales of water- and space-heating gear may reach $1.3 billion yearly by 1985.

"This is the number-one thing architects want to know about," says Lola Redford, a prime mover in promoting conservation and solar energy.

There are barely 300 solar houses in the U.S. today, but already Fire Island's first is under construction (designed for environmental lawyer George Davison-Ackley by architect Steven Robinson and solar engineer Fred Dubin), with a second in the planning stage. Can the rest of the nation be far behind?

It is only in the field of solar electric generation—turning the sun's rays into electricity, not just heat—that major technological advances are needed (and being achieved). Even now, photovoltaic cells are becoming economical for low-power applications in outlying areas, such as to power buoy lights at sea. Someday orbiting power stations may collect the sun's energy in space (where it is perpetually sunny) and beam it via harmless microwaves to receiving stations on earth. There it would be converted to electricity and fed into the national power grid. Electric "city cars," like the ones already available from Sebring-Vanguard, could then plug in, charge up, and drive off on what would be, indirectly, batteries full of sunshine. This scheme, the brainchild of Arthur D. Little vice-president Peter Glaser, is seen by some as a possible means by which the nation's space program could eventually become economically self-sustaining.

The problem is that people tend to lump all solar-energy applications together as "space-age," when some have actually been around for centuries. Twenty-four hundred years ago, Xenophon noted that "in houses with a south aspect, the sun's rays penetrate into the porticoes in winter, but in summer the path of the sun is right over our heads and above the roof, so that there is shade." He suggested building houses with tall south walls, to capture the winter sun. Think what he could have done with modern insulation and plate-glass windows!

Windows allow the sun's heat into a room, but impede its escape. Anyone who has entered a parked car facing the sun in the wintertime has probably noticed this "greenhouse" effect. In 1942, in Chicago, there was a brief sensation over a "solar house" that had been designed with huge south-facing windows, much as Xenophon described. In the midst of a severe cold spell, on a day when the temperature ranged from 17 to 5 degrees below zero, this house was able to maintain a 72-degree temperature from 8:30 in the morning to 8:30 at night without burning a drop of fuel. It was a great curiosity, but as the weather warmed up, and with fuel cheap, people quickly lost interest.

Similarly, there were 60,000 solar water heaters operating in Miami in the fifties. But with the advent of cheap natural gas, their use diminished.

Dramatic technological advances in solar-heating equipment are unlikely. There will be important design and engineering improvements, certainly; and it's true that investigating the field and investing in solar heating at this stage require a certain pioneering spirit. But it will not be like buying a $300 electronic calculator only to see the price fall to $19.95 five years later. Rather, what will make solar heaters seem cheaper and cheaper will be the inexorable price increases of conventional fuels.

The reason there's not much room for miraculous breakthroughs in solar heaters is that they're so simple to begin with. Picture a hot black roof under a scorching sun. Now picture a hose that runs water up from your pool (or water tank) to the top of the roof, lets it trickle down, and then runs it back into the pool. That's a solar pool heater. Put a piece of glass or plastic over it, to let the sun in but keep the cold air out, and it will work in January—and attain temperatures hot enough to scald you. Put that hot water in a Thermos bottle, and it will last overnight. Blow air past it and it will heat your living room.

The practical mechanics of all this can be troublesome (corrosion, disintegration, freezing, condensation, leaks, etc.); but the basic concept is just that simple: collector panels on the roof connected to a storage tank downstairs.

MISCONCEPTION 2

Solar energy is fine for Arizona, where it's hot and sunny, but not here.

The idea is not to replace conventional hearing with solar energy but to supplement it. To design a system that relied 100 percent on the sun would be uneconomical in most areas, because the extra collector and storage capacity needed to see you through the very worst weather would be wasted most of the time. Systems are designed instead to shoulder anywhere from 30 to 90 percent of the load. Simple thermostats tell the conventional heater when to kick in and do the rest.

Naturally, solar panels will collect more sun in Phoenix than in New York. But they still make sense in New York. Water in an insulated storage tank will stay warm longer down south than up north. But up north it can still retain its heat overnight, and sometimes over two or three days.

MISCONCEPTION 3

The question is: If I install one of these things, how quickly will it pay for itself? Five years? Seven? I'm patient, but I'm not crazy.

With any solar system, it's the "first cost" that's high. Once installed, fuel is free and maintenance practically nil. *But payback is the wrong concept to use.* When you install some kind of solar heater, you are actually buying your own small utility company. Not just ten shares—the whole thing. You are the chairman of the board and sole stockholder, and you receive monthly dividend checks in the form of savings on your *other* utility bill. These "dividends" are recession-proof, inflation-proof, strike-proof, pollution-proof, terrorism-proof, computer-error-proof . . . and, most important, *tax free.* (The government doesn't tax us on money we save, only on money we earn. "A penny saved is two pennies earned.")

If you put $1,000 in a 7½ percent savings account, after taxes you would earn maybe 5 percent—a $50 "dividend" every year. But if you put it into a solar water heater that cut your gas or electric bill by just $10 a month, you would in effect be getting a $120 annual dividend. One way to look at that is as an eight-year payback, which sounds awful. Another way to look at it is as a 12 percent tax-free return—hard to beat. After ten years you would have received $1,200 in "dividends," compared with $500 from the bank; and, if it had been well made, your original investment would be safe and sound on your roof.

In areas with high utility rates (nowhere higher than New York), the payback can be much shorter than eight years, the tax-free dividends much higher than 12 percent. Even in the Hollywood hills, where low-priced natural gas is still available, one pool owner saw his gas bill drop from $100 a month to $30 after he put in a $1,500 solar heater. He expects to have $600 a year—a 40 percent tax-free return.[1]

It's true you can't withdraw money from your solar heater when you need cash for a vacation; it's true it won't beautify your roof; and it's true only time will tell whether the thing will really hold up for ten or twenty years like other plumbing/roofing-type installations. But consider the pluses:

The interest on your savings account is not likely to rise much above 7½ percent; it could even decline. But the dividends from your solar utility company—the money you save on fuel or electricity—are almost sure to rise. Substantially. If fuel bills climbed only 5 percent a year over the next decade, a conservative estimate, then the solar utility that was saving $120 in the first year would be saving $186 by the tenth—or $1,509 in all. Better than three times what you'd have gotten, after tax, from the savings bank.

Yet look at all the people who put money into banks or stocks or bonds without thinking twice, but who wouldn't dream of investing in a fuel-saving installation that didn't pay for itself in three or four years.

(This applies as much to investing in refrigerators or air conditioners, automobiles or extra insulation, as it does to investing in solar heaters. Very often, the appliance or installation that costs a little more up front is *by far* the better investment—both for the buyer himself and for society as a whole. A Harvard researcher compared two refrigerators and found that *even at the pre-embargo cheap-energy rates then prevailing,* the unit costing $67 less up front would cost $354 more to operate over its twenty-year life. He also calculated that if all color-TV purchasers in 1970 had chosen the most efficient unit on the market, roughly a billion pounds of coal would have been saved—along with the attendant costs of strip-mining it and spewing it out into the atmosphere as pollution.[2])

As for the fact that you can't very well take your solar heater with you when you move, you should nonetheless be able to recoup your investment. This is one home improvement that will really save the new owner money. The pool that once cost $200 or $400 a season to heat (go ahead, show him the bills) is now heated free. That's worth something.

Furthermore, it's bankable. Banks will make home-improvement loans for solar heaters. And the interest they charge is tax

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[1] The price of natural gas is federally controlled. If it were not, it would about triple. In the meantime, its use has been banned for heating new swimming pools in New York, and California and Illinois are on the verge of taking similar action.

[2] *John Neely thesis in energy utilization: Harvard University, 1972. As cited in* Energy for Survival *(see box, page 37).*

deductible. Your tax-free dividends could easily exceed your tax-deductible interest cost—in which case you could even make a profit without putting up any cash of your own.

Two things more:

First, it is always possible that we will experience interruptions in the availability of fuel or power. Natural gas is already being denied some industrial users. It may be little comfort if the lights are out and the world is falling apart, but with your own solar heater your water is likely to be at least lukewarm.

Second, $1,000 invested in solar panels is really different from $1,000 spent over the years on oil or gas. In the first case, it goes for materials like copper and glass, and for labor; in the second, for irreplaceable fossil fuels. Copper can be recycled; once oil is burned, all that remains is pollution. If we survive, there will always be an abundance of labor (it's jobs that are scarce); but someday the fossil fuels will, for all practical purposes, run out. To say this won't happen for 50 or even 150 years is not only optimistic—it's a crime against future generations.

An investment in solar energy is obviously not without risk. As in any young industry there are bugs to be worked out, shysters to be avoided, ten-year warranties backed by companies that may not be around more than ten months, false claims, honest mistakes, inexperienced installers—and so on. But no 12 or 20 or 40 percent tax-free return is without risk.

MISCONCEPTION 4

The energy shortage is a hoax. There's plenty of oil, huge amounts of coal, and limitless nuclear energy.

Well, the country used to be overrun with buffalo, too, and look what happened. The difference is that buffalo can reproduce themselves.

Despite the quadrupled price of oil, production in this country is actually falling. Huge discoveries are being made, and will continue to be made, it's true—but more and more of them will be in places like the North Sea, where the cost of exploration, extraction, and transportation is staggering. Not to mention the cost of pollution, which is not reflected in the price.

It's not a question of whether we will run out of fossil fuels, only when. The earth is a finite planet. By one estimate, there is enough oil in the ground to last another 31 years. But even if there is really *five times* as much oil down there as we've found for sure, it will still run out in just 50 years if consumption grows at 4 percent a year. Under the same assumptions—five times the known reserves but a 4 percent consumption growth—coal would last 150 years. At which point, even if we had been able to find alternative sources of energy, we would have permanently exhausted the raw materials we need to make plastic, synthetic fiber, and a great range of "petrochemicals."

It is becoming a cliché that with less than 6 percent of the world's population, the United States accounts for better than 40 percent of its fossil-fuel consumption. For the rest of the world eventually to achieve our standard of living—which in many areas, and underlying our foreign-aid program, seems to be the implicit long-term goal—per capita world energy consumption would have to sextuple. And with millions of little capitas being added to the energy rolls every week, *aggregate* world consumption would have to *more* than sextuple. So what looks like a 50- or a 100-year energy supply might actually last a more developed world just ten or fifteen years. What then?

"It might be said that energy is for the mechanical world what consciousness is for the human world," writes E. F. Schumacher in *Small Is Beautiful: Economics as if People Mattered*. "If energy fails, everything fails." Either we envision a world in which we live one way and no one else is allowed to, or else we change the way we live.

Enter the deus ex machina, a flotilla of 500 nuclear-power plants bobbing peacefully off our shores and, assuming the rest of the world follows our wise lead, eventually 2,500 more bobbing throughout the rest of the world. Beyond their truly monumental cost; beyond the fanciful notion that one of them might someday, accidently or through sabotage, blow up; and ignoring for a moment that even uranium might someday run out—there remains the problem that these plants would be generating vast quantities of deadly and indestructible wastes. Schumacher quotes Dr. Edward David, once President Nixon's science adviser, as saying: "One has a queasy feeling about something that has to stay underground and be pretty well sealed off for 25,000 years before it is harmless." And there is the problem of nuclear terrorism. It is well known that small atomic bombs are relatively easy to make; the expansion of the nuclear-power industry virtually assures that they will be made. But how can you argue with progress?

Unfortunately, solar energy is by no means a complete answer. But it is part of the answer. Swimming pools aside, water-heating in the U.S. accounts for a full 4 percent of our energy consumption. Two thirds or more of that load could be switched to the sun—a savings in energy that would light every light in the country twice over.

The potential savings in space-heating are substantially greater. About a fifth of all our energy goes to this end. Buildings designed to exploit, not fight, the sun (at no appreciable increase in construction cost), coupled with better insulation of both new and old structures (at very modest cost), could cut the national heating bill by 25 percent or more—a savings in energy sufficient to power every truck, bus, and motorcycle on the road. Solar collector panels and storage systems require more of an initial investment, but would increase the energy savings still further.

BIRMINGHAM NEWS PAYS TRIBUTE TO SENATOR ALLEN

Mr. HELMS. Mr. President, the lead editorial in the June 14, 1976, edition of the Birmingham, Ala., News quite properly pays tribute to the distinguished junior senator from Alabama (Mr. ALLEN).

Entitled "Allen's Moral Victory," the editorial comments upon the valiant fight lodged by Senator ALLEN against the pernicious anti-trust bill which was recently the subject of extended debate in this Chamber.

In addition, the editorial dwells at some length upon the remarks made by Senator ALLEN on June 10, 1976, just prior to Senate passage of the anti-trust bill regarding the obvious shortcomings encountered by the Senate once cloture had been applied. It is interesting to note Senator ALLEN's observation that the anti-trust bill undoubtedly would have been passed sooner had cloture not been invoked inasmuch as full and free debate on the measure would have permitted the Senate to remove certain unwise and detrimental provisions from the bill which it was not possible to do when operating under the cloture rule.

The summation made by Senator ALLEN is so clear and concise that it should be read by every individual interested not only in protecting and preserving the unrestricted right of amendment and of debate, but also in maintaining the time honored parliamentary methods and means which have made the U.S. Senate unique as a bulwark against arbitrary bossism.

Mr. President, I ask unanimous consent that the editorial to which I have referred and the remarks of Senator ALLEN on June 10 be printed in the RECORD.

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

ALLEN'S MORAL VICTORY

Sen. Mike Mansfield, D-Mont., and majority leader, and Sen. James B. Allen of Alabama have widely differing philosophies, despite the fact that both men are members of the Democratic Party. (Most Alabamians, of course, are pleased at this difference.)

The differing philosophies were sharply profiled during debates on the recently passed compromise antitrust enforcement bill, both from the standpoint of the substance of the new act and the process by which it came to passage.

The bill as passed may not have been all that Sen. Allen wanted it to be, but the fact that it was amended to delete serious liabilities is a tribute to Allen's steadfastness in the face of overwhelming odds and to his canny facility with parliamentary rules.

Mansfield and his fellow liberals would have punitively disregarded the legal rights of firms doing business anywhere in the United States. Allen insisted that these traditional rights, hallowed by 200 years of history, be retained in the bill.

In Allen's own words: "I feel that antitrust legislation should be fair, protect the consumer, and afford adequate protection from unfair harassment for those against whom antitrust proceedings are brought."

Mansfield, of course, accuses Allen and the minority which was seeking improvements in the bill of "dialatory tactics."

Allen, on the other hand, saw Mansfield's and the majority's push for cloture as being a coercive device to shut off debate, an attempt to put the Senate in a straightjacket to assure passage of bill with unwise and unfair requirements.

Allen maintained that cloture is nearly always more time-consuming and costly in terms of unwise legislation than if full and open debate is allowed to develop. Most observers of the legislative process would have to agree with Allen on this point.

Allen also properly lectured Mansfield and the Senate on the danger of suspending Senate rules in order to railroad a bill through.

"This attitude has been shortsighted," Allen told the Senate, "because we have many, many decades and centuries for the Senate to exist, and just to get one piece of legislation passed the Senate has overturned time-honored rules in the Senate. That is a shortsighted policy, because we have to live with these rules after this bill is passed . . . The point I am making, Mr. President, is that no piece of legislation is important enough for the Senate to stultify itself by changing the rules of the Senate—not by normal procedures provided by the rules, but by sheer power or votes in the Senate."

Allen also told the Senate that at any time the attempt was made to use the rules in an unfair or unequal manner, he could be expected to react promptly using every parliamentary device available.

Allen concluded his lecture by saying that the minority's insistence on full debate has resulted in an improved bill, one which protected both the consumer and prospective defendants. Eliminated also was a provision which would have allowed attorneys general to employ other attorneys on a contingent fee basis to press some kinds of antitrust actions.

Alabamians can be proud that they have a senator who insists on observing the great principles of democratic government and on dotting all the Is and crossing all the Ts. Would that all of our senators were similarly persuaded.

THE ANTITRUST IMPROVEMENTS ACT OF 1976

Mr. ALLEN. Mr. President, I favor strong but fair antitrust legislation. As a matter of fact, some of my predecessors in Congress played an outstanding role in securing the enactment of some of the antitrust legislation presently on the Nation's statute books: Gen. John T. Morgan, one of Alabama's great Senators, served in the Senate from 1877 to 1907.

The ACTING PRESIDENT pro tempore. May we have order in the Chamber and in the galleries so the Senator from Alabama can be heard?

The Senator may continue.

Mr. ALLEN. And in the 1890's he was one of the outstanding advocates and authors of antitrust legislaiton.

The Clayton Antitrust Act was authored by Representative Henry D. Clayton of Alabama. And this tradition of support of antitrust legislation has come down to Alabama's delegation in the House and Senate.

I feel that antitrust legislation should be fair, protect the consumer, and afford adequate protection from unfair harassment for those against whom antitrust proceedings are brought. I do not believe that the chief beneficiaries of antitrust suits should be the attorneys, employed by State attorneys general, who operate on contingent fees because all too often the attorneys have been the main beneficiaries of antitrust proceedings.

So it was the hope of the Senator from Alabama that we could agree upon legislation that would be fair to the general public, to the consumer, to the States, and to prospective defendants in these actions.

Mr. President, I believe that the amendment that has been offered by unanimous consent will bring much needed improvement to the substitute before the Senate. Already, some major improvements have been made in the pending legislation by the Senate.

In my judgment, the offer of compromise that has been made has resulted in large measure from the fact that there has been extended debate on this subject. In extended debate, a measure receives very close and careful and studious attention by the Members of the Senate. Focus can be had on the defects in the bill, and efforts can be made to correct some of those defects.

I do feel, however, that there is a tendency on the part of the leadership to move too quickly to cloture before a consensus can be arrived at in the Senate; because once cloture has been voted, the Senate is in a straitjacket. It is limited to the amendments at the desk that were filed prior to the start of the cloture vote. They cannot be changed by so much as a period or a comma without unanimous consent, and all too often that is not given. So I believe that the leadership would do well to move cautiously in filing cloture motions.

There is a possibility that this legislation could have been passed sooner had cloture not been invoked, because it would have allowed the Members of the Senate to shape and improve and perfect and polish this legislation by having the flexibility of offering amendments and amendments to amendments as changes took place in the legislation.

I submit, too, Mr. President, that cloture may well not be the quickest way to obtain passage of the legislation. We have been on this measure, since cloture was invoked, some 5 or 6 days, some 8 days in all. But the moving to cloture did not hasten the passage of this bill at all, in the judgment of the Senator from Alabama. The imposition of cloture put the Senate at a great disadvantage in seeking to shape and perfect this bill.

So I am hopeful that the leadership, in the days ahead, will not be so cloture happy, so trigger happy. Filing cloture motions the very day the legislation is brought up in the Senate is not conducive to harmonious relations.

Mr. President, I must mention again, even though we are now in a spirit of conciliation and agreement, that it is entirely likely that this legislation, after the adoption of cloture, was fought harder, was resisted more, was battled with greater dedication, because of the fact that on Friday a week ago, this matter was brought before the Senate in a method the Senator from Alabama feels was contrary to the Senate rules.

I serve notice right now that on occasions when the Senator from Alabama does not receive the equal protection of the Senate rules as legislation is rammed through the Senate, the Senate is going to see a continuation of efforts to prevent passage of the legislation as to which the rules are not equally applied.

I must also express regret that the Senate, acting at the behest of the leadership, has seen fit to change rules of the Senate on the floor by the raising of points of order and getting rulings from the Chair or from a vote of the Senate, showing a very shortsighted attitude—both the leadership and the membership of the Senate on the side of the majority. When I speak of the majority, I am not talking about the majority party. I am talking about the majority philosophy as to particular legislation.

This attitude has been shortsighted, because we have many, many decades and centuries for the Senate to exist, and just to get one piece of legislation passed, the Senate has overturned time-honored rules in the Senate. That is a shortsighted policy, because we have to live with these rules after this bill is passed. I say it is a shortsighted policy to overturn Senate rules just to get one bill passed. I decry that sort of attitude and that policy.

On one occasion, the distinguished majority leader sought to charge against the Senator from Alabama—on the short period of 1 hour that was accorded him after cloture was invoked—the time it took for the clerk to read the amendments that the Senator from Alabama offered. He made a point of order. The Parliamentarian, knowing full well that the practice for 50 years in the Senate has been not to charge a Senator with time for amendments, in order not to offend the leadership, sought to submit that question to the Senate, knowing full well what the Senate would do—or thinking he knew full well what the Senate would do. But he did not know what the Senate would do, because we had a near rebellion here on the floor of the Senate. The majority leader, using fine wisdom and discretion, withdrew his point of order.

The point I am making, Mr. President, is that no piece of legislation is important enough for the Senate to stultify itself by changing the rules of the Senate—not by normal procedures provided by the rules, but by sheer power of votes in the Senate.

So, yes, this is a great improvement on the legislation that was offered. But I point out again that cloture may not be the easiest way to get a bill passed. It is not the best way. When I feel that the Senate has not had the opportunity to shape legislation on the floor of the Senate and cloture is resorted to, you are going to see the Senator from Alabama making a point of that.

IGNORING THE EVIDENCE

Mr. GARN. Mr. President, on May 4 and May 25 I inserted in the RECORD short summaries of studies of the oil industry carried out by two different universities, Claremont Men's College and George Washington University. Unfortunately, it appears that the members of the Judiciary Committee did not look at the conclusions of these studies. Both studies concluded that the oil industry is competitive and that divestiture would produce nothing more than confusion and disaster.

A third study has now been published, under the auspices of the national energy project of the American Enterprise Institute for Public Policy Research. The study is entitled "Vertical Integration in the Oil Industry," and it is edited by Edward J. Mitchell. I ask unanimous consent that Dr. Mitchell's Introduction be printed at this point in the RECORD.

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

INTRODUCTION

(By Edward J. Mitchell)

"Breaking up the oil companies" has become a popular idea in Washington. It occurs repeatedly in the campaign rhetoric of presidential aspirants and has already given rise to an unsuccessful but close Senate vote on vertical divestiture of the petroleum industry. Vertical divestiture means splitting companies that operate in many phases of the oil business into separate production, refining, transportation, and marketing companies.

As always, political popularity is derived from public opinion. Polls show that the American people hold a highly unfavorable view of the oil industry. But public opinion is a sound basis for public policy only when that public opinion is informed. And public opinion regarding energy, and the oil industry in particular, is pitifully uninformed. According to polls, the public believes that oil companies make sixty cents of profit on each dollar of sales. In fact, they typically make four to five cents on each dollar of sales.

The question of oil company profits is a simple one compared to the issue of vertical integration and vertical divestiture. If the public is uninformed or misinformed on oil company profits it cannot have the foggiest idea of what the consequences of vertical divestiture might be. With such a foundation of ignorance it is hardly surprising that the issue should give rise to demagogy. Professor M. A. Adelman of the Massachusetts Institute of Technology, one of the world's leading authorities on the petroleum industry, has remarked:

"The public attitude toward the multinational oil companies brings me back to the bad old days of Joe McCarthy. Then, many of our people, frustrated, angry, and a bit fearful of the unreachable leaders of the "monolithic Communist bloc," went out determined to find and bash an enemy at home. Today, unable to do anything about high oil prices, many of our citizens are inclined to take it out on the multinational oil companies."

The purpose of this volume is to remove some of the mystery from the subject of vertical integration and to help the reader arrive at some informed conclusions on the consequences of divestiture. These are not easy tasks, inasmuch as vertical integration is still largely a mystery to economists: indeed, it is fair to say that only in recent years has much serious thought been given to the subject. Recent research has mainly served to raise questions about earlier economic models and theories and about the policy conclusions of earlier economists and lawyers. Thus, this book is in part compensa-

tion for whatever misleading advice our predecessors may have offered.

To explain the connection, if any, between vertical integration and competition Professor Wesley J. Liebeler introduces the concept of vertical integration with some very homely examples. He points out that everyone who owns his own home, or washes his own car, or paints his own living-room is engaging in vertical integration. We all know that there is nothing devious about these activities and that our behavior says nothing about competition or monopoly in the housing, car washing, or painting market. Professor Liebeler concludes that corporate integration is equally innocent. Indeed, he concludes that vertical integration should always be presumed to be socially desirable. Even in cases where collusion or monopoly are present he finds no presumption that vertical integration does further harm. Wesley Liebeler is professor of law at UCLA. He has served as director of the office of planning and evaluation of the Federal Trade Commission and as assistant counsel to the President's Commission to Investigate the Assassination of President Kennedy.

Some economists have believed that vertical integration may be harmful if there is already monopoly at one stage of the industry. Professor Richard B. Mancke examines one by one the production, refining, transportation, and marketing sectors of the petroleum industry and finds (on the basis of conventional economic criteria) that each is competitive. Richard Mancke is associate professor of international economic relations at the Fletcher School of Law and Diplomacy, Tufts University. He has written extensively on energy matters and on industry organization generally. In 1970 he served on the staff of the cabinet task force on oil import control.

The first two authors deal with the questions whether vertical integration in general thwarts competition and whether the oil industry in particular is competitive. The next two authors deal with the positive side of the issue: does vertical integration create economies or reduced costs in the oil industry? In my chapter I first explore the nature of economies of vertical integration and then focus on the measurement of one economy, capital cost savings from the risk-reducing effect of vertical integration. I conclude that oil company profits in a nonintegrated petroleum industry would have to be at least 20 percent higher than they are now in order to offset the greater riskiness of nonintegrated companies. Consumer prices of oil products would probably rise by at least a billion dollars per year from this "risk effect" alone. Professor David Teece scans the entire petroleum industry applying the modern theory of integration to the various aspects and details. He finds that the cost-saving interpretation of oil industry institutions is consistent with the facts and that the affirmative rationale of economy is supported. David Teece is assistant professor of business economics at the Graduate School of Business, Stanford University. He is author of *The Multinational Corporation and the Resource Cost of International Technology Transfer* (1977).

The divestiture issue is not new to the oil industry. In 1911 the Standard Oil Trust was dissolved. In part this was a vertical divestiture, in that separate refining, production, transportation, and marketing companies were carved out from what was a highly integrated firm. Professor Arthur M. Johnson tells us what the fruits of that divestiture were. Generally, what happened was that the dis-integrated elements of Standard Oil reintegrated vertically. In the competitive oil industry of the 1920s and thereafter nonintegrated companies were unable to survive. Competition among the old Standard companies and their integrated competitors forced old Standard refiners to merge with producers, pipelines to merge with refiners, and so forth until the industry consisted of a large number of vertically integrated firms, each with a relatively small part of the oil market, the form in which we find the industry today. The dissolution, insofar as it was horizontal, helped spur competition, and competition spurred vertical integration. Arthur Johnson is the A. and A. Bird professor of history at the University of Maine and the author of the two-volume work, *Petroleum Pipelines and Public Policy*.

While the authors of this volume do not agree on every point, there appears to be a consensus on two points: (1) vertical divestiture would not make the oil industry more competitive; (2) vertical divestiture would raise oil costs and prices. In short, breaking up the oil companies would have no economic benefit, but a very real economic cost.

Mr. GARN. Mr. President, I would like to call the attention of the Senate to the final paragraph of the introduction, for emphasis:

While the authors of this volume do not agree on every point, there appears to be a consensus on two points: (1) vertical divestiture would not make the oil industry more competitive; (2) vertical divestiture would raise oil costs and prices. In short, breaking up the oil companies would have no economic benefit, but a very real economic cost.

I am not a member of the Judiciary Committee, Mr. President, but energy is important to the State of Utah, and I have tried to follow the debate as it has shaped up over the last few years. As part of my study, I read in the newspaper yesterday the reasons given by one member of the committee for seeking to break up the industry.

The reason given was that all the major oil companies raised their prices last year, just before the Fourth of July holiday. I hope that the committee members had some better reason than that, but that is the reason one member gave, as quoted in the paper. I would just like to point out that all the majors did not raise their prices just before the holiday. Exxon, which certainly qualifies under most definitions as a major oil company did not raise its prices until July 26, and neither Marathon nor Union raised theirs at all. Gulf did not raise its prices until after the holiday, and no doubt it reaped a substantial benefit because of the competitive edge.

Most of the majors did act before the holiday, but the explanation for that action was clearly outline by the editors of the Wall Street Journal. As the Journal editorial for July 15, 1975 pointed out, the interference of the Federal Government cause the increases to come, and to come together. I ask unanimous consent that the editorial referred to be printed at this point in the RECORD for the edification of the members of the Judiciary Committee, and for all other Senators.

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

THE GREAT GASOLINE CONSPIRACY

The sudden sharp rise in the demand for gasoline, plus the decline in gasoline stocks, plus the almost simultaneous announcement of gasoline price boosts by most refiners on July 1—all this adds up, in the minds of some Washington politicos, to a great gasoline conspiracy. Senator Henry Jackson, who wants to be President, and Senator Adlai Stevenson, who wants to be President, have announced Senate subcommittee investigations to find out what's going on.

Before they've heard the first witness, though, both gentlemen have announced their findings. Senator Jackson says, "Clearly the oil companies have manufactured a shortage." Senator Stevenson says this is "a classic study in the power of the major oil companies to reverse the normal rules of supply and demand." The prejudgments are a pity, for if the Senators could blot them out of their minds, their hearings would surely prove illuminating and educational.

Take the first question: Why were the price boosts simultaneous? Because under FEA regulations companies can increase prices to pass through costs, but "non-product" costs may be recovered only in the month following the one in which they are incurred. Unlike the cost of crude oil, they cannot be "banked" for recovery in future months when market conditions may be more favorable. In fact recently the companies have been having trouble making price increases stick, so if they are to have any chance to recover non-product costs they have to start as soon as possible. They need no collusion to arrive at the first of the month as the date to post increases. In short, the answer to question one is: The FEA.

On to question two: Why have gasoline stocks dropped so suddenly? Well, the FEA has an obscure rule that requires an oil company to charge everyone in a "class" of customers the same price regardless of geographical location. Before formation of the FEA, a company short on gasoline in California would call other companies and try to buy some, or perhaps swap some for fuel oil. For the right price, a company long in gasoline would sell some to the company that was short.

This no longer happens, because if the second company sold California gasoline at a premium price, it would have to raise its price to similar customers nation-wide. This would mean a loss of market share in other areas, and the premium sale is not worthwhile. So the telephone calls have stopped. It was in these calls when someone started to find that no one else was long on gasoline, that oil men got the first warning of an impending shortage. Without the calls, a shortage can come as a surprise. So to question two, the answer is: The FEA.

On to question three: Why aren't the nation's refiners, who are operating at less than 90% of capacity, importing more crude oil to make more gasoline? Well, imported crude costs $13, and the FEA will not allow refiners to pass along this cost until the next month. if the refiner is making gasoline from a mix of $5.25 price-control oil and $13 imported oil, more imported oil will push up unit costs without any immediate increase in the selling price. Perhaps it would be able to "recover" these costs by higher prices later, but then again maybe not. So the answer to question three is :The FEA.

Now, to give credit where it's due, the FEA runs around frantically writing new regulations trying to undo the damage its past regulations have done. Last week, for example, FEA head Frank Zarb was talking about allowing geographical differentials. But by now, we should be learning that the next regulation will only do something else, that the oil industry cannot be run from Washington without benefit of price signals. That the way to have the oil industry produce gasoline most efficiently, which is to say at the lowest price, is for the government to get out of its way.

Senators Jackson and Stevenson will find, if they conduct fair and honest hearings, that the spot gasoline shortages the nation now faces result not from conspiracy, but from the very controls they and their congressional colleagues created. Once they make this discovery, there no doubt will be

public apologies all around to the oil companies and no further attempt to extend controls past the August 31 expiration date. The great gasoline conspiracy was unwittingly concocted on Capitol Hill.

MANSFIELD: A LOW-KEY ROCK OF INTEGRITY

Mr. METCALF. Mr. President, my very distinguished colleague from Montana, the majority leader of the Senate, was the subject of a profile type article in a recent issue of the Christian Science Monitor. It is such a friendly and genuine interview that it catches the spirit and the genius of MIKE MANSFIELD. 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:

MANSFIELD: A LOW-KEY ROCK OF INTEGRITY

(By Louise Sweeney)

WASHINGTON.—When Mike Mansfield closes the double mahogany doors of the Senate Majority Leader's office for the last time, it will be with a soft click and not a slam. That's the style of the quiet man from Montana who is retiring after 34 years in Congress.

To give an idea of how quietly he treads the corridors of power, there is this story, which Republican Sen. Charles McC. Mathias of Maryland tells. It's about how Mr. Mansfield stirred some bipartisan political cream into a breakfast with the President:

Senator Mathias tells it reluctantly, grinning. "I don't suppose it hurts to say this today. . . . When I was running for re-election in '74, as a good Democrat, Mike couldn't do anything that would be overtly helpful to me. . . ." But Senator Mansfield did help.

When Gerald Ford was brand-new as President, the Majority Leader invited the President to the Mansfield home for an intimate breakfast, just the President, Mansfield, a Democrat Senator—and Mathias.

A DIFFICULT SITUATION

"It was a kind of rapprochement between the Majority Leader of the Senate and the new President who had arrived on the scene under very difficult conditions," Senator Mathias remembers.

"Obviously when the President arrives at Mansfield's house, that is covered by the press. And what more eloquent way can Mike have of getting a message across, than inviting you to come on that very special occasion to his house, and yet one which was perfectly proper, no one could object to it."

Michael Joseph Mansfield has been one of the two most powerful men in Congress for a decade and a half, but he feels about power as he felt about fresh peaches in his youth: he doesn't like the taste of it. Too much fuzz.

"I've never felt I was powerful or I had power. I always felt I was one of 100 members and that I was as good as the next one, but no worse. And the power that came to this job I diffused through others, through committees."

It is said of Mike Mansfield that "when he succeeded Lyndon Johnson, everybody in the Senate grew an inch." He says simply of LBJ and himself: "He was vigorous and I was retiring; he was an extrovert. I was an introvert." Those who applauded LBJ as the consummate ringmaster, flicking the whip often, have criticized Mr. Mansfield for not leading forcefully enough. A Washington Post editorial criticizes his "liberality that has involved a kind of abdication" of strong leadership.

SINCE FDR'S DAY

But no one questions the integrity, honesty, or fairness of this Washington landmark. Interviewing Mike Mansfield is like interviewing a mountain. Mount Mansfield is just there, a tall looming, craggy presence, casting his shadow over Washington ever since FDR's day. The familiar face is spare, high-cheekboned, lined, so quiet it is almost expressionless. Until you notice the glints of wit and emotion, like flashes of mica in a rock.

There is a glint now in the gray-blue eyes as he's asked about President Ford's decision not to use the word "detente" any more. "Oh, yes we are! It's a good word. It's in the dictionary and you can't abolish a word with a wave of the hand as Canute tried to abolish the tide with a wave of his spear or trident. The word's there. The meaning is clear."

Senator Mansfield, a prime mover and shaper on the Senate Foreign Relations Committee, was considered a neo-isolationist at one point. He says the word isolationism is still there, too, "but the idea has become outmoded . . . we're not veering back toward isolationism, if for no other reason than the fact that it is impossible to be isolationist in the world in which we live. . . .

"There's hardly a place in the world where you don't know within an hour any event that's happened there . . . we *have* to live with one another. . . ."

SELF-RELIANCE LEARNED EARLY

But Mike Mansfield himself has always had the self-reliance of a loner. He grew up like an orphan after his widowed, Irish immigrant father, a New York hotel porter, shipped him off to Great Falls, Montana, to live with an aunt. But young Mansfield ran away from home at 14, joined the Navy, went back later to Butte as a mucker (shoveler) mining copper until he met a teacher named Maureen Hayes. He had only gone through the eighth grade; she refused to marry him unless he got himself an education. He took on high school and college simultaneously; she taught him, cashed in her life insurance to put him through Montana State University. He got his BA, then MA there, went on to teach Far Eastern history at MSU before his 10-year term in the House.

His heroes are Montana State Sen. Tom Walsh, Western artist Charlie Russell, whose frontier scenes hang in his anteroom, and JFK. "My heroine? My wife."

In windy Washington, he's known as a terse man with a word, who answers many questions with a "yup" or "nope," a technique that once resulted in "Meet the Press" reporters—who had prepared 27 questions—asking 80. This man who sounds a little like Mr. Moody from Fred Allen's program says, "I can't stand extended talk. I think you can say what you want in a sparse, brief manner and the meaning is clear."

Here's his almost voluminous assessment of presidents he's known: "Roosevelt was the most effective . . . Truman the most courageous, Eisenhower for his two terms the best because he was a man of his times and presented a father image. Kennedy would have been a great president in my opinion, but tragedy cut it short. Johnson, the best president on domestic policy. On foreign policy, the Dominican Republic and Southeast Asia were tragedies. Nixon will be remembered for two things: opening the door to China and the Watergate affair. Ford: a more open White House, a candid president, very conservative, consistent in that respect, and really a difficult man for the Democrats to beat, so we can't take him lightly."

UP TO THE PEOPLE

He is asked whether he hopes for any resolution for the current impasse in government, with a President of one faith and a Congress of another. "No, because it will be up to the people to decide, and when they elect a president of one party and a majority of the other party in Congress they are expressing a desire that there should be a lack of conformity, that it shouldn't be a 'yes sir' Congress, that independence is something to be valued. . . . And I wouldn't want a Congress which would automatically come to heel because it had a president of the same party."

In his 24 years as a senator, Mike Mansfield says "the thing I'm most sorry about is the war in Southeast Asia. Tragedy. Costly in men and treasure. Costly in prestige. Utterly unnecessary. A war for which we'll be paying well into the next century."

What is he most proud of? He ticks off four things in his quick, telegraph style: first, obtaining the vote for 18 year olds; second, the part he played in initiating the Watergate investigation; third, the part he played in initiating the Senate intelligence inquiry (and the fact that there have been no leaks); fourth, the "evolution, unpublicized, in the conduct of the Senate."

He explains: "All senators are equal in my opinion . . . there are no superstar senators, there are no second-rate senators, no senators who should spend months or years saying nothing, while their elders speak out on any and all subjects. There is no club in the Senate any more. . . ."

Senate Minority Leader Hugh Scott (R) of Pennsylvania praises Senator Mansfield for that—for opening up the club. He tells of how Mr. Mansfield has opened doors formerly shut to all but the oldest, most powerful members "sharing the panache," Senator Scott calls it. "He's infinitely patient and terribly fair," says the Republican leader who transacts business with him all day long.

Like the college professor he once was, Senator Mansfield maintains a Mr. Chips sort of concern for the new boys. "There are people with potentials, people like Garry Hart, John Glenn, Bumpers, that entire class. Others ahead of 'em."

Sen. Frank Church (D) of Idaho says, "He was always a person I could turn to when I needed advice. . . . He personifies honor in the politics of our land—and in the profession which conspicuously lacks humility, Mike Mansfield is a truly humble man."

"Left, you always turn left in my office," he says, as he leads the way, with a soft lope, past the crystal chandeliers and marble fireplaces. He sits talking in a long buff-colored room about politics—and about poached eggs. Sometimes fixes them for his wife for breakfast. Admits he likes to read history and mysteries (Ross Macdonald, Dashiell Hammett), likes to watch movies "at Jack Valenti's Place," collects "Far Eastern memorabilia," listens to jazz, George Feyer, Enoch Light, Roger Williams.

A LITTLE FISHING

His wife, who sums him up as "kind, tolerant, a loving person," says he sings Edith Piaf and Cole Porter songs around the house. He says that when he quits he's going to do a little fishing in mountain streams.

From where he sits, is he optimistic or pessimistic about the future of the country which some suggest is in its decline and fall?

"Oh, as far as my country is concerned, I'm always optimistic. I become depressed once in a while, did during the war in Southeast Asia. But that's a feeling I can't afford to harbor too long. The country is still young, got lots of room, hopefully the purgatory which we've gone through in Watergate and Vietnam, Southeast Asia, will make us better people, a better nation. . . .

"Even though the government is criticized because of the crises we've passed through, there is a recognition that while democracy is the most desirable of all governments, it operates on a most delicate balance. I think out of all this is coming a better understanding, a greater appreciation, greater hope and confidence in the future."

And how does he want to be remembered? Long pause. Then, soft as a cat's paw: "As a man who did his best."

YOUTH CAMP SAFETY

Mr. RIBICOFF. Mr. President, this summer 8 million American children will attend camp. Tragically, for thousands of young campers the experience will result in serious illness, injury, or death. The cause of such accidents can too often be traced to unsafe camp conditions.

For this reason, I authored a youth camp safety bill in 1967. Now, almost a decade later, no affirmative action has been taken to eliminate the sometimes appalling conditions in many of the Nation's camps. Conditions such as dangerous equipment, unsafe vehicles, poor sanitation facilities, inadequate medical provisions, and unqualified personnel, are all potential sources of disaster. The time is long past that this situation be improved and our young campers and their parents assured of some meaningful level of safety.

The fact is that only seven States have comprehensive camp regulations. A recent HEW study revealed that "State laws relating to camp safety were grossly inadequate." The study found that as many as 24 States have no regulations pertaining to medical aid and services; 45 States have no regulations regarding out-of-camp trips; 35 States have no regulations for day camps; and 10 States have no regulations pertaining to trained supervision of aquatic activities.

These statistics and the continued rise in youth camp accidents prove that there is an urgent need to implement minimum safety standards. The children and youth camp safety bill, S. 422, would do just this. Despite its recognized need, this bill has yet to be enacted.

The measure has received widespread support from a number of camping organizations. The American Camping Association, the Scouting organizations, the Association of Private Camps, the National Recreation and Park Association, the Y Camps, and a number of church-oriented camp groups have all endorsed this legislation. These groups acknowledge the need for camp safety standards and, in the absence of any State or Federal regulations, many have attempted to enforce their own standards. This effort remains purely voluntary and, as such, provides grossly inadequate protection for campers.

The Senate acknowledged the need for camp safety in 1971, when the Ribicoff Youth Camp Safety Act was passed as an amendment to the Higher Education Act. Unfortunately, the provision was dramatically weakened as a result of opposition in the House.

Since the introduction of S. 422, a number of misconceptions have been circulated. These misconceptions, effectively delaying successful consideration of the bill, must be dispelled.

First, the measure is not advocating "Federal control" of the private camping industry. Because States have failed to take the initiative in establishing camp safety standards, S. 422 is designed to spur such action. Financial and technical assistance will be available to those States who move forward to administer a camp safety program.

Second, the bill will not interfere with camp programing. The measure specifically prohibits interference in the activities of a family or religious group. In no way will the measure restrict camp curriculum or ministry.

Third, the bill is not designed to close camps which fail to meet minimum standards. However, it will force submarginal camps to be upgraded to an acceptable minimum level of operation. Camp operators are assured of an input in the drafting of both Federal and State standards.

The children and youth camp safety bill provides that the Secretary of HEW will establish, within 9 months of enactment, minimum standards for the operation of safe and sanitary camp facilities. These standards will be developed in cooperation with an Advisory Council on Children and Youth Camp Safety and must be approved by both the House and Senate. The regulations will go into effect 21 months after enactment.

To comply with these Federal minimum standards, States will have three options. First, the State may choose to accept and enforce the Federal standards. Second, the State may choose to enforce its own safety regulations, which must be at least equal to the Federal guidelines. Third, the State may grant HEW authority to enforce the Federal standards in that State. Financial incentives, up to 80 percent matching funds, are available to those States choosing to enforce the program themselves.

In addition, the bill requires that all camp accidents be reported to the Secretary. Repeated or willful violations of safety regulations will subject the camp operator to financial penalties.

While it may not be possible to eliminate all camp accidents, we can at the very least begin to eliminate the source of a great many of them. The children and youth camp safety bill is a positive approach to this problem and approval of the measure, on behalf of our youth, is long overdue.

To further focus on the urgent need for S. 422, I ask unanimous consent that two very timely articles be printed in the RECORD.

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

[From the Boston Globe, May 6, 1976]

SUMMER CAMP SAFETY FACING U.S. SETBACK

(By Bernard Gavzer)

NEW YORK.—A proposed Federal law that would set minimum safety standards for summer camps—and hopefully cut down on a projected 250,000 accidents this summer—appears doomed in this session of Congress.

Three factors played a role in dooming the legislation:

The camp safety law was beaten by two obscure foes: the Texas-based Camping Assn. for Mutual Progress (CAMP) and the Midwest International Christian Camping Council.

Support has evaporated so effectively that Sen. Walter Mondale (D–Minn.), chairman of the Senate Labor and Welfare Committee and chief sponsor of the Youth Camp Safety Bill, won't risk bringing it to the floor.

Should the bill go to the floor and pass, there wouldn't be enough support to override a veto by President Ford, who before he became President voiced strong support for such legislation.

Some 8 million children will head for summer camps this year. It's generally impossible for parents to check out safety standards in out-of-state camps and there is no way for them to know with any certainty that such camps live up to reasonable standards, such as having certified lifeguards on the waterfront.

"Without such a law, you can be sure that there will be children who will drown or be hurt on the rifle and archery ranges," said Mitch Kurman, a Westport, Conn., furniture salesman who has campaigned for camp safety since his son drowned in a YMCA-camp canoeing trip in 1965.

"There is not only no way for parents to really rely on camps they can't visit, but they can't be sure there is any screening to prevent the hiring of people who might sexually molest a child, or who lack the skills to provide healthy and safe food service, medical treatment and so on."

The camp safety bill, which has been approved 8 to 6 by Sen. Mondale's committee, set standards for housing, staffing, medical and food services, as well as safety requirements on the waterfront, waterways, rifle and archery ranges. But in its watered-down version there was no provision for Federal inspections.

Support for the law was voiced by many powerful camp and parent and civic groups including the American Camping Assn., the Assn. of Private Camps, the National YMCA, the National YMHA, the Catholic Camping Federation, the Methodist Church Camps, Girl Scouts, the Boy Scouts of America, the Boys Club of America, the National PTA and the Salvation Army, among others.

Despite this, Sen. Mondale said he received no wide public support for the bill. There just wasn't the mail or the lobbying which would put pressure on senators and committee members to go for the legislation.

But congressmen did hear from those opposed to the law, particularly CAMP followers and those motivated by the International Christian Camp Council.

CAMP raised the issue of states rights, arguing that a Federal law would invade territory which was the province of the state.

Dr. John Kirk, director of the New Jersey State School of Conservation camp in Stokes State Park, said he felt such opposition arose from the mistaken notion on the part of some camp operators that the Federal law would lead to inspections and that while the camps might well meet safety standards there was the fear inspectors might inquire about racial or religious restrictions.

"Some camps deny entry to children because of race and creed and, while the Federal law does not deal with this situation, some operators may feel the question could be raised through any system using inspectors," he said.

Dr. Kirk did a national study of camp safety in preparing his master's degree at the University of Michigan.

Opposition by the International Christian Camping Council took the form of petitions distributed by some churches urging parishioners to tell congressmen they were against a camp law.

Leaflets distributed by ICCC claimed a law would put children under control of "the socialistic, communistic, satanic" Federal government.

Alan Stolz, a New Hampshire camp operator and legislative chairman of the American Camping Assn., called the handbill opposition a "red-herring" campaign designed to frighten the people and confuse the issue.

"These so-called Vacation Bible camps oppose Federal standards because many of them are located on old Civilian Conservation Corps (CCC) camp grounds and would fail to meet even minimum standards of health and safety," he said.

"These groups just don't have the money to renovate or improve the property. But be-

cause they can't do that, it doesn't mean that they should escape having to meet standards which provide for the safety of our children."

The opposition radically shifted the margin of support for the bill.

In 1971, the Youth Camp Safety Act passed the Senate 51–0, but when it was brought to the House for action, Rep. J. J. (Jake) Pickle of Texas introduced a bill to have a $300,000 study of the need for such legislation.

A new House bill, sponsored by Rep. Dominick Daniels (D-N.J.), got to the Senate and Mondale's Labor and Welfare Committee. In November 1974, the committee approved a bill 12–1.

But the opposition was gearing up and a reading by Mondale indicated there would be trouble if the bill was brought to the floor for a vote. That's when the teeth were removed. Not only was there no provision for Federal inspection, but the Federal law wouldn't apply in states where there already were camp safety laws, no matter how inadequate or how poorly enforced.

[From the Danbury (Conn.) News-Times, June 9, 1976]

POLITICS BLOCK YOUTH CAMP SAFETY

The safety of American children has become a victim of the current political campaign.

As a congressman from Michigan and while House minority leader, Gerald Ford strongly endorsed legislation on youth camp safety.

But as President, Mr. Ford sings a new tune. He's against federal youth camp safety standards because (1) it is a state responsibility and (2) it might cost American taxpayers some money (3 to 5 cents per capita annually).

In his battle with Ronald Reagan for votes on the Republican right, Mr. Ford ignores the simple fact that federal standards are needed because only a few states have adequate camp safety regulations and laws.

Camping is interstate business—big interstate business at that. Clearly there is a federal responsibility and clearly that responsibility has not been met.

The 10-year campaign of Mitch Kurman of Westport for effective youth camp safety standards has been cited in this space many times. Mr. Kurman is the individual most responsible for the steps a few states, including Connecticut, have taken.

He's still plugging away. But President Ford's current position makes it unlikely the Senate will take up in the remaining weeks of its current session the entirely reasonable Youth Camp Safety Act which the House has passed.

The President says he will veto the bill because of his current stance against federal activities and because of the cost—an estimated $7.5 million.

What is $7.5 million compared to the loss of 500 children who drowned in summer camp accidents over the past decade? Many would be alive today if there had been adequate state regulations on camp safety, meeting minimum federal standards.

How many will lose their lives this season? No one can say for sure. But the loss will be beyond measurement in dollars.

The deaths are bad enough. Too few pay attention to the injuries which leave young people crippled for life or which place intolerably high financial burdens on the families of victims.

The News-Times recently received a packet of material from Austin J. Luffman of Pfafftown, N.C. He had heard of our support for the Youth Camp Safety Act of 1976 and sent us clippings concerning the tragedy which struck his family.

His 10-year-old was attending a basketball camp in the summer of 1974 when he went for a swim with other youngsters. Older youths had been assigned as lifeguards to watch over the children, but it turned out some of the lifeguards could not even swim themselves.

The Luffman youngster slipped into deep water, was pulled from the pool and rushed to a hospital. The rescue crew got his breathing restarted, but he never regained consciousness. He remained in a coma for 19 months until his death earlier this year.

Wrote Mr. Luffman: "Congress is supposed to represent the people. Are not the approximately 100 children who die each year worth representing? Are not the nearly 250,000 children who get injured each year worth representing?"

Of course they are. But it is a pragmatic political fact of life at the moment that the necessary effective legislation will not get through the current session of Congress. In our view, a watered down version which sets no mandatory interstate standards and carries no funding would be worse than no bill at all.

So we hope Mitch Kurman and his wife, who have been battling for camp safety since their son was drowned in a camping accident a decade ago, the Luffmans in North Carolina and other supporters of camp safety will not lose heart.

They will have to carry their case again to the next Congress. The sad thing is that there will be new accounts of unnecessary camp tragedies this summer to support their pleas for effective federal action.

MEDICAL MALPRACTICE

Mr. PACKWOOD. Mr. President, I would like to share with my colleagues some of the views of Oregon physicians on the subject of medical malpractice insurance.

I recently submitted to each physician in the State a series of questions relating to rising costs of medical malpractice insurance, flaws in the present tort liability system, and various other concerns involved in the medical malpractice dilemma. I was most anxious to receive their views on how the Federal Government could offer some relief to the problem.

The response was loud and clear; 67 percent of Oregon doctors oppose direct Federal participation in resolving the malpractice controversy. There was a basic preference for State and local controls, plus some views expressed that Federal involvement would create yet another bureaucracy, lead to greater regulations in the medical field, and actually raise costs involved.

The physicians prefer, by a 61-percent majority, to set up State panels of experts to arbitrate disputes over the competency of medical treatment. These boards would presumably act like the present worker's compensation boards. Judgments assessed against a doctor would be limited by a set schedule of compensation.

The physicians view these boards as having several advantages. First, they would reduce the amount of time presently required to litigate malpractice suits. A panel of experts would be more likely to base a decision on the medical facts, rather than on an emotional response to a passionately presented case. A panel of experts would also be less likely to make the mistake of giving a settlement for a bad result or maloccurrence which is inevitable with some types of surgery or medical treatments.

Arbitration panels would also reduce the need for attorneys to go through protracted litigation efforts and research. Physicians see these boards as providing a major portion of the settlement to the actual patient, as opposed to the current practice wherein attorneys often receive a contingency fee of one-third to one-half the settlement.

A number of other suggestions were made by the physicians which deserve consideration:

First. Require a patient to obtain insurance prior to undergoing surgery or treatment to compensate them in the instance of a medical complication due to malpractice or maloccurrence.

Second. Provide for a medical no-fault system similar to no-fault automobile insurance.

Third. Set compensation levels according to the type and degree of injury.

Fourth. Set a maximum settlement level.

Fifth. Limit or eliminate the contingency fee.

Sixth. Institute a shorter statute of limitations.

Seventh. Provide a clear, legal definition in tort law for "malpractice," specifically excluding "bad result" and "maloccurrence."

Eighth. Provide for a congressional investigation of insurance company profits in the malpractice field.

Ninth. Eliminate compensation for "pain and suffering."

Many doctors are shouldering a tremendous financial burden under the present malpractice insurance system. Rates are so high in some cases that several Oregon physicians have completely dropped their malpractice insurance, and remain vulnerable today to suits involving millions of dollars. Other doctors have gone out of practice altogether or have retired early, rather than pay the exorbitant rates now being charged. Physicians reported to me that malpractice insurance rates in certain communities have resulted in widespread departures by doctors. And those physicians who have specialized practices are facing the highest rates of insurance.

Perhaps one of the most unfortunate impacts caused by the increase in malpractice claims is the practice of "defensive medicine." Doctors, anxious to protect themselves from malpractice suits, may order every test imaginable for a patient, so as to leave no room open for legal attack. We have an acknowledged shortage of physicians in many sections of the Nation. This overcure approach to medicine, however, spreads physicians' overtaxed hours more thinly, plus contributes significantly to the high cost of health care.

Many Oregon physicians believe the malpractice dilemma cannot be entirely resolved through restructuring of the current insurance system or by any other means until some of these social attitudes are changed.

I also noted that many physicians have suspicions about the reserve maintained by the insurance industry on the malpractice issue. While 55 percent of Oregon physicians oppose a congressional investigation into malpractice cases, I am left with the clear impression that they would appreciate more accu-

rate information on current practices within the malpractice insurance industry. State-initiated inquiries might be preferable, but physicians would probably support a Federal level investigation, if necessary.

The Oregon Association of Hospitals has reported an average 78 percent increase in rates charged for malpractice insurance. Farmers' Insurance Group, the largest insurer of such liability on the west coast, increased their rates to these Oregon hospitals by $493 per occupied bed.

Oregon and other Northwest States, even given these massive increases, are fortunate when compared with States in other areas of the country. We had the smallest increase in rates, with the exception of the Southern States. Other States, because of significantly higher recoveries, have experienced from 50 percent to 500 percent increases in insurance rates over the past year.

SUMMARY

If we learn nothing else from the physicians in Oregon, we should understand from their responses that extreme caution should attend any move by Congress or the Federal Government to become involved in the malpractice controversy. I am strongly persuaded, in fact, that Congress should refrain from acting on this subject in any regard, except perhaps to encourage the development of arbitration panels.

From the high degree of intelligence, and clear thinking exhibited in letters sent by Oregon physicians to my office, I must say that Congress would do well to respect their views. I have never, in the 8 years of my Senate career, received such a collection of well reasoned thinking. My colleagues in the Senate can learn a great deal from a close communication with these individuals. And, I hope other Senators will be encouraged to contact the physicians in their States on this complex subject.

I ask unanimous consent to have printed in the RECORD a brief table and outline summarizing the viewpoint of Oregon doctors on medical malpractice insurance.

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

Views of Oregon physicians on medical malpractice

[In percent]

	Favor	Oppose
Direct Federal Participation in Solving Problem	20	67
Congressional Investigation of Insurance Industry	26	55
Improve State Laws Regarding Tort Liability	63	5.5
Congressional Encouragement of Arbitration Panels	61	12

FEINGOLD ASSOCIATION OF THE UNITED STATES

Mr. McCLURE. Mr. President, the first national convention of the Feingold Association of the United States was held in Washington, D.C., on May 21–23, 1976. This first convention of FAUS was an important milestone in the years-long effort to help hyperactive children, and is another tribute to the dedication of Dr. Ben Feingold.

Dr. Feingold has achieved dramatic results in helping hyperactive children overcome both learning difficulties and behavioral problems. As a result of his work and dedication, local Feingold Associations have been formed throughout the United States. It has been the success of these community efforts which led to the formation of the national association.

Mr. President, our distinguished colleague from Maryland, Senator J. GLENN BEALL, has been active for several years in bringing to our attention the importance of Dr. Feingold's work. Senator BEALL recognized the seriousness of hyperactivity and its impact on millions of schoolchildren. In October 1973, he brought to our attention the findings of Dr. Feingold, whose work had helped many of these children. Senator BEALL deserves our commendation for his efforts and particularly for the greater recognition of Dr. Feingold's work within the several Federal agencies concerned with this national problem.

Dr. Ben Feingold has earned the gratitude of parents and children throughout the United States. I wish him continued success in his work and offer my congratulations to the new Feingold Association of the United States.

FOUNDRIES IN DILEMMA

Mr. McCLURE. Mr. President, the industrial and military strength of our Nation requires a productive and growing foundry base. Without the primary metals produced by this industry, our economic growth would soon stop. For this reason—among many others—it is necessary that we continue to closely examine the impact of unreasonable Federal regulations.

Two months ago, I discussed the serious impact that many Federal regulations have on our ability to produce military weapons, especially armored vehicles. At that time, I used as a reference an article in National Defense magazine, by Ms. Debbie C. Tennison. Ms. Tennison has now completed a second article, again documenting the serious impact of Federal controls on this vital basic industry.

Mr. President, I believe that the information provided by Ms. Tennison should be available to my colleagues and I ask, therefore, unanimous consent that the article "Foundries in Dilemma," from the May–June 1976 issue of National Defense be printed in the RECORD.

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

FOUNDRIES IN DILEMMA

(By Debbie C. Tennison)

While the Russians continue to expand their already extensive industrial foundry base, American foundries are facing increasing difficulties in maintaining and expanding their capacity. And this is posing a serious threat to the viability of an important segment of our industrial base.

It likewise poses a threat to the production of many items necessary for our national defense including: tanks, ships, rifles, shells, bombs, grenades, rocket and missile launchers, fire-control systems, and cast armor and treads for many vehicles besides tanks. Nuclear power plants also are affected, as are virtually all electrical generating systems, and hydroelectric and fossil fuel. Mining equipment and all engines to power ordnance vehicles depend on castings also.

Why are U.S. foundries in trouble? Foundry owners and foundry association officials say problems stem from environmental regulations, safety and health directives, materials shortages, import/export policies, and the inflationary impact on foundry working capital.

The primary-metal industry is affected by environmental regulations since it generates sources of air pollutants such as smoke, fumes, vapors, particulate matter, and odors. Almost all basic foundry operations such as molding, melting, pouring, grinding, chipping, powder burning, and shake-out generate air contaminants. Pollution control regulations require capture, retention, and proper disposal of pollutants from each source at great expense for control equipment, engineering, installation, and maintenance.

SOVIET PRACTICES

Soviet foundry owners, on the other hand, do not have to contend with such restrictive environmental legislation. U.S. Government sources explain that the Soviets are aware of environmental problems, but if they need foundries to produce castings for their armed forces, they aren't going to let environmental problems stop them.

American businessmen who visit Soviet foundries are amazed by the lack of safety and environmental practices there. The Russians have some basic safety guidelines, but they are not enforced. For example, visits to some foundries showed that standard safety equipment required in the United States, such as hard hats, safety shoes, and eye protection, was not in evidence. Output is what counts in the U.S.S.R.

The Soviets have a stable production base because of their long-term planning. They have the clout at the top of their structure to control what their foundries produce. This is in comparison with the U.S. market economy, where economic and commercial interests prevail over defense interests. The result: the Soviets clearly have a faster response to their defense needs. (See Table I for a comparison of the capacity of the defense-industrial base of both countries.)

TABLE I.—CASTINGS PRODUCED IN THE U.S.S.R. AND THE UNITED STATES, 1960–71

[In thousands of tons]

	1960	1965	1968	1971
All castings:				
Russia	14,583	18,258	19,459	21,159
United States	14,907	20,528	19,527	17,857
Gray iron: Russia	10,563	13,006	13,857	14,904
Gray and ductile: United States	11,594	19,713	15,130	13,839
Castings malleable (or ductile) Russia	456	576	659	672
Malleable iron castings: United States	821	1,136	1,007	884
Steel castings:				
Russia	3,179	4,088	4,243	4,765
United States	1,392	1,961	1,730	1,583
Nonferrous:				
Russia	285	588	701	818
United States	1,100	1,718	1,660	1,551

A look at the figures in the table and a study of the foundry industry's problems explain the statement made recently by Assistant Secretary of the Army Harold L. Brownman that our national security is being threatened by the industry's problems. Secretary Brownman first became interested in the industry's dilemma in December 1974 when he became responsible for increasing U.S. tank production. He still maintains a very active interest in the program.

"Foundries have been in this country for many, many years and have been doing very well without the Environmental Protection Agency (EPA) and Occupational Safety and Health Administration (OSHA)," Secretary Brownman comments. "I don't think the industry should be left totally to its own devices, but the laws should be administered with reasonableness and fairness."

Secretary Brownman contends that the environmentalists have gone too far in trying to achieve perfection. He adds that the environmental laws have been promulgated by people with good intentions—but who don't have sufficient background in industrial operations.

EXCESSIVE REGULATIONS

According to the Cast Metals Federation, excessive regulations by EPA and OSHA have greatly affected all U.S. foundries. They have been the principal cause of the closing of many smaller jobbing foundries.

"Foundries must expend capital to meet conflicting, and in many cases immeasurable, standards with unproven control equipment," says Walter M. Kiplinger, Jr., Washington representative of the Cast Metals Federation. "The net results are a major reduction in working capital, vast increases in nonproductive operating and maintenance costs, and escalation of energy consumption—resulting in much less productive capacity."

Those in the foundry industry do not challenge the concepts of the legislative acts of EPA and OSHA but only the manner in which they are implemented. Referring to EPA in particular, foundry officials claim that economic impact studies conducted by that agency grossly underestimate the full cost of compliance to the industry. Such studies rarely, if ever, include the high operating costs and the many exceptional variables which are encountered in installation, engineering, and sometimes relocation.

According to John Butler, chief of compliance of the analysis section of EPA's Office of Enforcement, the usual cost of installing EPA-mandated regulation equipment in a foundry is less than $1 million, but he admits that the small foundries do have problems paying this price.

Disagreeing with Mr. Butler's cost estimate is William B. Huelsen, director of environmental affairs for the American Foundrymen's Society of Des Plaines, Ill., who says the less-than-$1-million estimate "is more the unusual circumstance than the usual."

An example which supports Mr. Huelsen's statement is the Urik Foundry Company, Erie, Pa., which installed a cupola dust collector in 1967. Air pollution regulations changed in the early 1970's, necessitating a new dust collector, costing in excess of $1 million. Other compliance costs will be another $1 million.

In defending EPA, Mr. Butler claims the agency really hasn't focused on the foundry industry but that some industries are harder hit than others. He says the requirements are reasonable.

But what about the costs which foundries must absorb so "reasonable" standards can be enforced? "There are penalties you must pay," answers Mr. Butler. "Spending for the protection of public health purposes can't be termed unproductive."

However, those in the foundry industry view costs to meet the standards as unproductive. Industry officials estimate that compliance with EPA and OSHA standards will drain 15 to 20 per cent of the industry's total capital expenditures throughout the 1970's. This means that significant sums of capital are being diverted from foundry modernization and expansion.

ADMINISTRATIVE BURDENS

But capital investment is not the only problem caused by the enforcement of EPA and OSHA standards. The administrative work required for compliance with these regulations is also a burden to foundrymen. They find it difficult to attend to their business properly when they must fill out numerous forms and spend time with inspectors.

Another problem is that, in some cases, action taken by foundries to control cupola emissions has created a new problem of water pollution. A recent American Foundrymen's Society survey showed that 24 per cent of the respondents had waste water treatment problems. Of those reporting such problems, 78 per cent said this was the result of the operation of dust-collection inspectors.

In the same group of respondents, 79 per cent reported that they had a new solid waste disposal problem, especially in ferrous foundries, and here again is an area of operation that is affected by overlapping or conflicting regulations.

Why is it that lawmakers pass such conflicting regulations? Sen. Dewey F. Bartlett, R-Okla., says: "Any bill becomes a sort of sacred cow once it's passed. We pass too many bills too hurriedly. And we make requirements involving technological changes when we don't understand the full impact on small foundry owners."

As a result, of the 400 foundries which have closed since 1969, at least one-third closed chiefly as a result of the clean-air standards. The foundries that are surviving are finding that it costs 10 times as much to control 99 per cent of foundry emissions as it does to control 93 per cent.

"The new standards promulgated by EPA are getting progressively more strict, and when you must reduce the amount of emissions it means more emissions collection equipment," states Mr. Huelsen.

For example, he explains, a document presented to the National Air Pollution Control Techniques Advisory Committee in December 1975 justifies a proposed standard (0.0052-grain per dry standard cubic foot of exit gas) "which is not attainable in my mind. Certainly the energy requirements associated with this regulation are going to increase considerably. There will be other new source performance standards coming for cupolas and other foundry equipment. If this is any indication of what future proposals are going to be, the impact will be substantial."

One foundry which found that compliance with EPA standards caused substantial increases in energy consumption is the Grede Foundry of Iron Mountain, Mich. It reported that the afterburners used to convert carbon monoxide to carbon dioxide are fired by natural gas, and on an average day those afterburners consume about 44 million Btu's. This is enough natural gas to heat 200 average homes in that town.

Another foundry experiencing increased energy use and higher costs is the Texas Steel Company of Fort Worth, Tex. That company found that to move the 400,000 cubic feet of air per minute to control fugitive emissions will require increasing fan motor power from 200 to 1,500 horsepower. This will increase operating expenses by some $100,000 annually. Additionally, as furnaces are equipped to meet the codes, effective capture of emissions is improved by only 5 to 10 per cent.

Also facing economic difficulties due to equipment for environmental regulation is Ross-Meehan Foundries of Chattanooga, Tenn. The company has found it necessary to raise prices in order to derive revenues to pay for the necessary new air pollution control equipment and its subsequent operation and maintenance because the additional equipment is not productive.

Even though Ross-Meehan Foundries has not been forced to close like many smaller foundries, officials there fully anticipate that the Chattanooga area will be designated a Class I area according to Clean Air Act amendments.

"With that designation, we foresee serious complications (probably insurmountable) in any modernization or expansion effort to remain competitive, with the result that our company, if not relocated, would slowly die, because no additional particulate matter would be permitted in the area," states Harold F. Torok, manager of defense operations for Ross-Meehan.

Present methods for measuring fugitive emissions from plants appear to be arbitrarily at best since interpretation is left entirely to the judgment of a single individual who is not knowledgeably equipped for such measuring. Quite often the source of contaminants is not sufficiently definable to determine proper control measures.

NOISE REGULATIONS

Because of the nature of the industry, it is also greatly affected by OSHA noise regulations. There are numerous operations where metal-to-metal contact is unavoidable, and there is extensive use of high-velocity intake and exhaust fans and compressed air.

OSHA requires costly engineering or administrative controls as a permanent solution to noise problems and considers use of personal protective devices, such as earplugs, as only a temporary solution until economically and technically feasible control measures can be installed and implemented.

According to officials at the Lebanon Steel Foundry, Lebanon, Pa., the 90-decibel maximum noise requirement is an extremely difficult and costly regulation to accommodate in a primary metal industry. Process noise from plants in community surroundings—particularly during summer months when windows are open—are naturally subject to complaints resulting in pressure to apply strong noise-control measures.

Commenting on Lebanon's complaint about the ability to control noise, James Foster of OSHA states: "There's no question that it presents problems, but there are people going deaf too."

He adds that OSHA is not trying to put anyone out of business—or to reap Federal penalties. But foundries do have a substantially high accident rate, he claims—much higher than the national average of 10.4 cases per 100 workers in 1974. In that year, the primary metal industries (which includes foundries) had 19.7 accidents per 100 workers; the national metal industries had 10.9; the malleable iron industry had 42.1; and the iron and steel foundry industry had 32.2.

"It's very hazardous work," Mr. Foster notes, "just from the safety standpoint alone." It is for this reason that OSHA is focusing on foundries in its National Emphasis Program—expected to be implemented late this summer.

This is to be different from the routine OSHA inspection. OSHA will inspect for standard violations, will consider new standards, and will look at the total safety commitment in its inspections. OSHA already has announced its intention to inspect foundries—and it will notify foundrymen as to what it is looking for through intensive education programs. This type of inspection hasn't been performed previously. In the past, OSHA only looked at standards—not at the whole climate.

OSHA will begin training its inspectors in foundry practices in June. "They will train in a foundry so they will know what to look for—so they won't be bamboozled," explains Mr. Foster.

How will this National Emphasis Program affect foundries? For one thing, they will be cited and fined if violations are found. Also, OSHA will give foundrymen suggestions as to how improvements can be made. After keeping very detailed records during inspection, OSHA will return to the foundries at a later time to see if the improvements have

been made. The inspection phase of the program will last for approximately 18 months.

According to G. John Tysse, director of OSHA's Occupational Safety and Health Committee, the National Emphasis Program is a major effort to make standards more reasonable. He says OSHA is considering some kind of exception for industries which have special difficulties in complying.

Even so, Secretary Brownman claims that the program will "probably raise holy cane with the foundries. I don't think it's fair for the foundry industry to be singled out for this study."

SILICA DUST

Under OSHA's proposed silica-dust regulation, one man is needed for every 50 employees on the payroll to carry out the monitoring requirements. Record keeping will be horrendous.

If such requirements aren't enough to hinder the larger foundries, perhaps OSHA's new and proposed regulations will be. With OSHA now moving into the health area (new dust and noise standards and heat-stress criteria), the potential outlay for foundries will far exceed expenditures for air and water pollution control.

According to the Cast Metals Federation, OSHA is being implemented in an unrealistic manner, forcing large expenditures of funds by even those foundries which have had outstanding safety records.

MATERIALS SHORTAGES

Some foundrymen seem to be just as worried about materials shortages and related problems as they are about environmentally related quandries. And rightly so, since foundries experience shortages of ferrous scrap, merchant pig iron, carbon products, ferro-alloys, refractory products, chemical and organic binders, coke, electricity, natural gas, and foundry machinery.

The major raw material for ferrous casting is scrap iron and steel, which is supplemented by pig iron and, depending on the metal composition desired, a variety of nonferrous metals. One of the major problems of the ferrous-casting industry has been the availability of scrap, which has been scarce and rising in price.

Ferrous casting industry trade associations and individual producers believe that substantial scrap exports are the main cause of the domestic shortages. In 1973, the industry consumed a total of 21.1 million tons of scrap, according to Bureau of Mines figures. Scrap exports in that year amounted to 11.1 million tons. The price of No. 1 melting scrap rose 251 per cent to $121.67 per gross ton from January 1973 to March 1974.

"Scrap is a form of stored energy," says Secretary Brownman. "So we're exporting energy to other countries."

Action by the Government to embargo or limit the exportation of scrap metal temporarily has been urged by the steel foundry industry. Scrap requires only one-third of the energy needed to get the same castings from virgin ore. Yet the United States remains the only industrial nation which exports it.

Although scrap and other material shortages have not been as much of a problem to the foundry industry in the last year, due to the recession, as soon as business picks up to the 1973 level, the industry expects to be in the same trouble as then.

One major problem, according to Mr. Huelsen, is that "much of the low-sulfur coal that the EPA is literally pushing the power companies to burn is metallurgical coal—which in our lifetime will not be a problem, but it could be better used by future generations for iron and steel production. Many wars have been fought in Europe to control metallurgical coal supplies. We are using it for power generation—while it is invaluable."

Experts from the Illinois Institute of Technology contend that using this special commodity merely for energy-producing purposes is criminal. This coal is the *sine qua non* of high-grade steel production. It is accordingly a natural resource to be carefully husbanded.

CHROME

Another invaluable metal is chrome—which is said to be in short supply for some foundries. Even with the recent defeat by the House on the Rhodesian chrome import restriction bill which should help stabilize chrome's price and availability, America depends on chrome that is under Soviet control. This situation stems from the fact that Rhodesian chrome has no market in the industrial countries, thanks to political sanctions involving racial affairs. So Rhodesian chrome has to be sold—at a discount—behind the Iron Curtain.

According to *Nation's Business*, the Soviets already have a lot of chrome of their own, and Western countries have little, so the Soviets buy Rhodesian chrome and sell it, as well as their own chrome, at premium prices to Westerners.

One foundry owner who produces high-alloyed ferrous castings requiring chrome, nickel, molybdenum, silicons, and other alloys and has had serious difficulty obtaining metallurgical chrome in the past year is Lane Currie, president of H. C. Macaulay Foundry Company, Berkeley, Calif.

He tried to buy chrome alloy from Russia through U.S. contacts both here at home and in Russia in 1975. Responses to these inquires were negative and included such comments as "we regret to inform you that we are not in a position to make you an offer for the goods required," and that "over the past few years Soviet chrome exports have been reduced considerably, principally due to the Soviets' increased domestic demand for stainless steel."

Mr. Currie notes that the Russians do not have a surplus to sell to the U.S. at this time—a condition most likely caused by Russia's ferrous foundry expansion mandate to continue to maintain a metal-casting industry far in excess of U.S. production. Mr. Currie also notes that he recently had been acquiring alloys from Rhodesian sources and is greatly concerned as to the continuance of availability dependent upon our governmental intervention regarding another embargo against Rhodesia and the political situation there.

Chrome, which is 98 per cent imported from foreign countries, has two basic functions in a foundry: it hardens and toughens metal, and it helps resist corrosion.

Without chrome alloys, Mr. Curri's foundry would not be able to produce the many component parts for numerous defense projects which include: cell doors for Western Gear's antiballistic missiles; landing gear arrester parts for Platt Manufacturing of Dayton, Ohio; and test fixtures for Lockheed Missile's space equipment and missiles. The H. C. Macaulay Foundry also provides parts for Argonne National Laboratories of Idaho Falls, Idaho; York Manufacturing of York, Pa.; Westinghouse Electric of Sunnyvale, Calif.; Sargent Industries of Huntington Park, Calif.; and Sandia Laboratories of Albuquerque, N. Mex.

PIG IRON

Shortages also have risen to critical levels for merchant pig iron. During the latter part of the past decade, 10 blast furnaces producing merchant pig iron have been taken out of production or converted to hot-metal use for steel mills. During 1972, three more followed, leaving a total of only five blast furnaces engaged in this activity—with one of these often used for steel-mill hot-metal requirements.

OSHA and EPA regulations, along with a substantial increase in imported pig iron, have been major factors in the decline.

Also in short supply are a variety of carbon products. These range from electrodes for arc furnaces to carbon raisers for the production of gray, malleable, and ductile iron—which represents 83 per cent of the total annual casting tonnage produced.

One shortage which is worldwide is that of raw magnesite—used in refractories for steel foundries and arc furnaces. This is another area being affected by OSHA. In the United States, this material is produced synthetically. Delivery is taking approximately two years—with energy availability being given as the chief cause of the shortage. Other refractory products, such as fire clay and silica brick, are running into problems of lengthening lead times despite availability of raw materials.

Another important problem for the industry is a shortage of foundry machinery. When available, improved foundry equipment enables the industry to improve its productivity and expand its capacity substantially. However, with existing lead times for equipment delivery of up to two years, and with the difficulty of obtaining capital, many foundries are forced to stay at their present production level.

One contributing factor to this problem is the overwhelming number of machinery orders received by U.S. manufacturers from countries such as the U.S.S.R. and Poland.

Even though some economists point out that, in theory, shortages of machinery and other products don't exist and that supply and demand equilibrium is almost always achieved by shifts in price—shortages are indeed very real.

They are real to the purchasing agent placed on allocation for raw material supplies or whose margins and competitive position are damaged by skyrocketing prices. And they are real to the military procurement officer whose lead times for weapon systems have quadrupled overnight.

Some of the larger foundries are not affected by materials shortages. In recent years, Blaw-Knox Foundries of East Chicago, Ind., has not been affected—to a major degree that would reflect curtailed operations—by either scrap or chrome shortages. However, this plant is presently limited on maximum natural gas consumption, and production could be curtailed should extreme cold weather conditions exist.

Bob Buckley of Blaw-Knox notes that the industry is given a maximum allocation of gas. However, this allocation can be reduced in order to give preference to residences, hospitals, and other public users. Gas at the East Chicago plant is used mainly for the heat-treating furnaces, and, should gas be in short supply, this part of the operation would have to be reduced.

INFLATIONARY IMPACT

Foundries also are affected by inflation, just as any other industry. The 1971–1974 period of wage and price controls seriously impacted on the ability of the industry to generate profits because of a low profit margin base period. The industry was exempted a few months prior to the expiration of controls, but long after severe damage had been done.

According to the Cast Metals Federation, wage and price controls were not the answer then—and are not the answer to the industry's problems today.

Foundrymen contend that severe environmental, health, and safety controls are not the answer to pollution and safety problems either. And they have supporters in industry and Government.

One is the U.S. Chamber of Commerce, which is supporting amendments to the Water Pollution Control Act, the Clean Air Act, and the Occupational Safety and Health Act—to provide for reasonable, attainable, and cost-effective standards, and compliance schedules to consider social, employment, economic, and energy impacts on a case-by-

case basis. The amendments are now being debated by Congress.

Solutions to the foundry industry's problems as outlined in this article will be dealt with in the next installment of this series, to appear in the July–August 1976 issue of National Defense.

THE PUPFISH AND INDIAN WATER RIGHTS

Mr. KENNEDY. Mr. President, on June 7 a unanimous decision of the Supreme Court granted protection to a rare species of desert fish name "pupfish" which inhabit Devil's Hole in Nevada. The Court affirmed a lower court's decree limiting the pumping of underground water by adjacent ranchers. In doing so, the Court breathed new life into the federally reserved water rights doctrine established in earlier cases and cast a shadow across the alleged entitlement of farmers, ranchers, and other water users who pump underground water from sources depended upon by Indian reservations. This decision holds special significance for the Five Tribes of Central Arizona. It also bodes warning to those who, by pumping underground wells adjacent to the reservation, deprive the tribes of water to which they are entitled under Federal law.

In the case of Cappaert against United States, the Court reiterated that:

> When the Federal Government reserves land from the public domain, by implication it reserves water rights sufficient to accomplish the purpose of the reservation.

The purpose, in that case, was the conservation of the Devil's Hole cavern pool and its resident pupfish under the Act for the Preservation of American Antiquities.

Similarly, Indian reservations are entitled to water rights sufficient to accomplish the purposes for which they were created—namely, the preservation and well-being of Indian communities and their economies. The language employed by the Court in Cappaert is unequivocal:

> This Court has long held that when the Federal Government withdraws its land from the public domain and reserves it for a federal purpose, the Government, by implication, reserves appurtenant water then unappropriated to the extent needed to accomplish the purpose of the reservation. In so doing the United States acquires a reserved right in unappropriated water which rests on the date of the reservation and is superior to the rights of future appropriators. Reservation of water rights is empowered by the Commerce Clause, Art. I, Sec. 8, which permits federal regulation of navigable streams, and the Property Clause, Art. IV, Sec. 3, which permits federal regulation of federal lands. The doctrine applies to Indian reservations and other federal enclaves, encompassing water rights in navigable and non-navigable streams.

The Court then cited approvingly the two most important Indian water rights cases in its history, Winters against United States, the foundation of Federal law in this area decided in 1908, and Arizona against California, decided in 1963.

Mr. President, the "pupfish" case explodes the notion that Indian reservations lack an effective judicial remedy to prevent the diversion to other uses of water that is legally and justly theirs. It also underlines the importance of prompt congressional consideration of and action upon S. 3298, the Central Arizona Indian Tribal Water Rights Settlement Act of 1976, which I introduced on April 13, with the cosponsorship of the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE), and the Senator from South Carolina (Mr. HOLLINGS).

The Committee on Interior and Insular Affairs has not yet scheduled hearings, though hearings are urgently needed to show that Congress is serious about the settlement of Indian water rights and also to prevent a proliferation of pupfish-inspired suits against central Arizona water users—a development which could wreak havoc upon the economy of that area.

PRESIDENT FORD SPEECH TO THE SOUTHERN BAPTIST CONVENTION

Mr. SCHWEIKER. Mr. President, I think it is appropriate today to call to the attention of my colleagues President Ford's remarks to the 1976 Southern Baptist Convention this week. In a decade when public confidence in Government fell to an alltime low, the need for public officials to set a good example for others is greater than ever. The President put it well when he said:

> The American people, particularly our young people, cannot be expected to take pride or even to participate in a system of Government that is defiled and dishonored, whether in the White House or in the halls of Congress.

I ask unanimous consent to have printed in the RECORD the text of the President's remarks.

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

THE WHITE HOUSE REMARKS OF THE PRESIDENT TO THE 1976 SOUTHERN BAPTIST CONVENTION—SCOPE CONVENTION CENTER

Dr. Weber, Congressman Downing, Congressman Daniel, Mayor Hill, members of the Executive Committee, ladies and gentlemen:

It is truly a great honor for me to be the first President of the United States to address this Southern Baptist Convention. I recall with great interest the last time I was introduced at an event sponsored by the Southern Baptists. It was a Brotherhood Commission prayer breakfast in Dallas almost exactly two years ago when I was Vice President. The man introducing me was very considerate, very generous in his remarks and very friendly. I was introduced as a man with an open mind and a compassionate heart, and today I would like to return that compliment to the gentleman who introduced me then—Governor Jimmy Carter.

The honor you have paid me with the invitation to speak at this convention is very special to me in a very personal way. Although our religious denominations are different, I have long admired the missionary spirit of Baptists and the fact that you strive to keep the Bible at the center of your lives. I also respect and appreciate your commitment to health care and educational advancement of your fellow citizens, as exemplified by the many hospitals, universities and seminaries supported by Baptist churches.

My oldest son, Mike, who is now a divinity student at Gordon-Conwell Seminary in Massachusetts, was graduated from the Baptist-affiliated Wake Forest University, and it was my pleasure four years ago to be the speaker at his graduation ceremony.

We meet today in a year of historic importance and national celebration—the Bicentennial year of American independence. Even as your denomination has grown from fewer than 500 people in America at the beginning of the 18th Century to almost 13 million today, Baptists have played a very fundamental part in the birth and growth of America.

An early champion of religious freedom—which the great Baptist Minister George Truett once called "the supreme contribution of the New World to the Old"—was Roger Williams, founder of Providence, forerunner of Jefferson and giant among Baptists. The principle of democracy itself was rooted deeply in the Baptist Church long before there was a United States of America. Thomas Jefferson so admired the Baptist form of church government that he called it the purest democracy in the world.

Abraham Lincoln's mother, a devout Baptist, was perhaps the most important and enduring influence in the memorable life of her son, implanting in him a deep faith in God and always encouraging him to be somebody. History gives us many, many more examples of profound Baptist influence on American life, a tradition still being enriched today.

Billy Graham came from your ranks to become one of today's most influential Christian evangelists and one of the most admired men of our times. Brooks Hays—twice the President of this convention, a former colleague of mine in the House of Representatives and a very dear friend, has stood through his distinguished career as a man of courage and a man of conviction, a man of towering moral strength, a man who sets a good example for all of us in public or private life.

These rich contributions of religious liberty, democratic principles, social equality, evangelistic fervor and moral strength have reserved for your people an honored place in American society. You have always jealously guarded the separation of church and State but you have always believed that private morality and public service can and must go hand in hand.

The essential task of leadership in our modern age as in ages past is to inspire, to teach, to act with courage, to live with honor and to show the way.

The minister in the pulpit, the teacher in the classroom, the foreman on the dock, the executive in the boardroom, the commanders of armies and navies, the parents of children all share the burden and the satisfaction of leadership fully as much as those who serve in government.

What is required of us all if we are to lead successfully, as a long moral foundation? We cannot stand very long on the shifting sands of "situation ethics." History proves that power and prestige are slippery peaks from which the mighty have often fallen into disgrace. Jesus said, "What is a man profited, if he shall gain the whole world and lose his own soul?"

We stand in danger today of losing the soul of America to the seductions of material gain and moral apathy, to a new code of conduct which revives the basic truths and mocks the basic beliefs on which this Nation and much of religion were founded.

Forgiving hearts and tolerant attitudes are among the greatest lessons of Christian teaching, but at some point we must take a stand and say this is right, this is wrong—there is a difference.

In this Bicentennial year we celebrate our independence from a foreign power, but we reaffirm our dependence upon a higher power. We recognize, just as George Washington did in his first inaugural address, that no nation on earth can owe more to providence than the United States of Amer-

ica. Our greatness is because of our goodness. Should we cease to be good, we would soon cease to be great.

Public officials have a special responsibility to set a good example for others to follow, in both their private and public conduct. The American people, particularly our young people, cannot be expected to take pride or even to participate in a system of Government that is defiled and dishonored, whether in the White House or in the halls of Congress.

Jesus said, "Unto whomsoever much is given, of him shall much be required." Personal integrity is not too much to ask of public servants. We should accept nothing less.

The American people have seen too much abuse of the moral imperatives of honesty and of decency upon which religion in Government and civilized society must rest. To remedy these abuses we must look not only to the Government but, more importantly, to the Bible, the church, the human heart. We must look to the family for the instruction in righteousness and for the stabilizing influence so important in a complex, confusing and ever-changing world. We must look to the faith of our fathers. The laws of God were of very special importance to our Founding Fathers and to the Nation they created.

The early history of our country was written by men who valued the freedom of religion and had in common a deep faith in God. I believe it is no accident of history, no coincidence that this Nation, which declared its dependence on God even while declaring its independence from foreign domination, has become the most richly blessed Nation in the history of mankind and the world. For it is as true today as it was in the Old Testament times that "blessed is the nation whose God is the Lord." I believe that very deeply and so do you.

In my own life and throughout my career in public service, I have found in the passages of the Bible a steady compass and a source of great strength and peace. As each of my predecessors in the Presidency has done, I asked for God's guidance as I undertook the duties of this office. I have asked for that guidance many times since. Just as Roger Williams and his followers found refuge in Providence, more and more Americans today are turning for refuge to the safe harbor of religious faith—a fact born out by your own rapidly increasing membership roll.

This rekindling of religious conviction, this new appreciation for Biblical teaching we see in America today is an encouraging development as we move into our third century as a Nation. It means that we will resolve to make our society not only prosperous but noble, not only progressive but constructive. We may come to know peace not as the mere absence of war but as a climate in which understanding can grow and human dignity can flourish.

While we are far from attaining heaven on earth, we can make this earth a better place to live. That must be our constant goal, whether we labor in Government or in the kingdom of God.

The Southern Baptist Convention has sought throughout most of its history to overcome the enemies of the world—ignorance, disease, poverty, tyranny, injustice, greed and war itself—even while setting your sights on the gates of heaven.

As America enters its third century still battling these enemies, still reaching for life on a higher plane, we could ask no better inspiration than these words of a favorite passage of mine from the Book of Proverbs: "Trust in the Lord with all thine heart and lean not unto thine own understanding. In all thy ways acknowledge Him and He shall direct thy paths."

Thank you very, very much.

AMNESTY INTERNATIONAL

Mr. KENNEDY. Mr. President, recently, the U.S. affiliate of Amnesty International sent a cable to the OAS General Assembly urging greater action on behalf of human rights in the hemisphere.

In addition, the Organization raised additional questions concerning the status of human rights violations in Chile, Argentina, Uruguay, Brazil, and Cuba. I believe it is important that we recognize what is occurring in too many countries within the hemisphere as well as examining to what degree our own policies in the hemisphere have helped cause this situation. I bring to the attention of my colleagues the cable and the accompanying statement of Amnesty International, which I ask unanimous consent to have printed in the RECORD.

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

AMNESTY INTERNATIONAL, USA CABLES OAS GENERAL ASSEMBLY

Professor Ivan Morris, Chairman of the Board of Amnesty International, sent the following cable June 4, 1976 to His Excellency Alejandro Orfila, Secretary General of the Organization of American States:

Amnesty International, USA most respectfully submits the following recommendations upon the occasion of the 6th general assembly meeting of the OAS.

1. The Inter-American Commission on Human Rights of the OAS be allowed free access to investigate all reports of violations of human rights in any member state.

2. The U.N. Human Rights Commission visit Chile within the next 30 days as announced following U.S. Secretary of the Treasury William E. Simon's visit to Chile in mid-May.

3. The Inter-American Commission on Human Rights Report on Chile be thoroughly discussed at this General Assembly.

4. The rights of refugees and exiles in all member nations be guaranteed according to international legal norms.

Signed,

Professor Ivan Morris, Chairman of A.I. U.S.A.

Professor Morris sent the cable in the light of increasing violations of human rights in Latin America, including systematic use of torture, disappearances, the recent murders of parliamentarians in Argentina, and uncontrolled activities of military intelligence services.

Amnesty International urges the OAS to fully discuss the agenda item of the report of the Inter-American Commission on Human Rights in Chile. This report which accuses the military junta of "very grave violations of human rights" is dated November 21, 1974. At last year's meeting, following a private agreement among member nations, the OAS General Assembly refused to discuss the report, giving as a reason the impending visit to Chile of the U.N. Human Rights Commission which was then denied entrance by the Chilean government.

As pointed out in a recent article in the New York Times by Jose Zalaquett, a leading Chilean human rights lawyer arrested and deported to France after having spoken to three visiting U.S. Congressmen about human rights violations, "Although the junta is carrying out fewer arrests, it has recently undertaken new measures to increase fear and silence critics. They are directed primarily against the churches, universities, labor unions and some elements of the news media."

Amnesty International has recently learned of new arrests of at least 185 people in Antofagasta May 18th, and of further arrests of trade union leaders and members of the Communist party in the Santiago region on the 17th and 18th of May. Those arrested in Antofagasta have been taken to prison in Santiago.

This recent wave of arrests only underlines another point by Zalaquett, "A sophisticated totalitarian government is more dangerous than a crude one and the recent Chilean developments show the increased sophistication of the junta. But there is no evidence of any real progress for human rights."

The situation of "disappeared persons" is extreme in Chile and becoming so in Argentina. In his testimony before the U.S. House of Representatives subcommittee on International Organizations on May 5, 1976 Jose Zalaquett testified that the files of the Chilean ecumenical Committee for Peace included approximately 1,040 prisoners who have disappeared after being arrested whom the government does not acknowledge as even being placed under arrest. According to estimates of the Committee for Peace, about 95,000 people were arrested during the first 18 months of the military government for a period of at least 24 hours, a report accepted by the New York Times as recently as April 12, 1976. In Argentina, because of the news blackout, there are no reliable estimates.

If the OAS does not produce a clear statement on the issue of human rights, then the Chilean government will have succeeded in its tactic of making small temporary concessions with human lives during periods of increased international pressure, while continuing to silence all internal protest.

A.I.U.S.A. notes with deep regret the recent deaths of Uruguayan exiles arrested in Buenos Aires. Their bodies, most bearing marks of torture, were found in the outskirts of Buenos Aires on May 20th. These included two former Uruguayan parliamentarians, Senator Zelmar Michelini and Hector Gutierrez Ruiz, former President of the Uruguayan Chamber of Representatives. Another Uruguayan, Dr. Manuel Liberoff, disappeared at the same time and is still missing.

A.I.U.S.A. is alarmed at the recent tendency toward the abandonment of the traditional right to asylum and lack of tolerance toward political exiles and refugees.

In his inaugural address as President of Argentina in March, General Jorge Rafael Videla promised to respect human rights. Foreign Minister Cesar Augusto Guzetti assured the United Nations High Commissioner for Refugees April 5th that the thousands of political refugees from other countries living in Argentina will not be persecuted or returned to their countries of origin. There is overwhelming evidence to the contrary.

On April 10, Chilean refugee Edgardo Enriquez Espinosa was abducted from his home in Buenos Aires together with a Brazilian woman, Regina Macondes. In early May it was reported that he had been repatriated and was held in a torture center in Chile. The Argentinian authorities are reported to have denied the repatriation, but they continue missing.

In spite of statements made by the new Argentine authorities that international law would be respected and the rights of refugees protected, reports from Argentina prove otherwise. There are approximately 9,000 defacto refugees who have been declared eligible for U.N. High Commission for Refugees protection but who have not been granted asylum. There are reports of "black lists" that have been circulated to embassies in Argentina naming people who must not be granted asylum.

It is alarming to us that the Argentine government has banned the press to report on arrests, disappearances or killings. Reports received by Amnesty International range from between nine and 30,000 arrests

since the military takeover, but there are no reliable estimates as lists of detainees have not been issued even in the face of increasing international pressure. This lack of information is clearly disturbing to the population and to the relatives of arrested or disappeared persons who have no access to information about the fate of their family members.

A.I.U.S.A. questions what measures have been taken to investigate allegations that foreign political police agents (Chilean, Paraguayan and Uruguayan) operate inside Argentinian territory with impunity. There is evidence of collaboration between the political and military police of neighboring countries throughout the Southern Cone.

A.I.U.S.A. also is concerned at reports that members of the Argentinian police and military are involved in the parapolice organization, Argentinian Anticommunist Alliance (AAA) responsible for over 2,000 killings before the March 1976 military coup and for at least 300 further assassinations after. It questions what steps have been taken to curb the activities of the AAA.

Just as in Chile after the September 1973 coup, Latin American exiles in Argentina are subject to persecution, torture and assassination because, in the eyes of the security forces, exiles are seen as potential "subversive" elements. Some of the exiles have been politically active in their countries; others have been persecuted simply because they were relatives of alleged subversives, intellectuals or officials of a former government, or sometimes for no apparent reason whatsoever.

Amnesty International mounted a worldwide campaign this spring to exercise pressure on the Uruguayan authorities and to create mode awareness about the human rights situation in Uruguay. There are further reports that torture has not stopped—further reports brings the total to 28 known cases of death under torture. Amnesty International estimates there are 4000 political prisoners in Uruguay, a county of 2.5 million people.

Reports from Brazil indicate that many journalists (including Vladimir Herzog, who died in custody in October, 1975), trade unionists, lawyers and workers have been arrested during the past year for alleged connections with the Partido Comunista Brasilero (PCB), and there has been a consistent pattern of torture used to extract confessions, aimed at substantiation of the government's claims that the Movimiento Democratico Brasileiro (MDB) has links with the illegal communist party. Many of the accused have consistently denied the charges or retracted confessions extracted through torture. The estimated number of persons detained over the period of January to November 1975 has been put at 1500. Almost all reports of detention received by Amnesty International over the past 12 months have been accompanied by allegations of maltreatment which range from psychological intimidation to the most brutal forms of torture.

Another wave of repression was launched by the Paraguayan authorities in early April, 1976, after the alleged discovery of a new guerrilla network, called the Organizacion Politico-Militar (OPM). Similar waves of violent repression in Paraguay have been carried out in the past. A conservative estimate says that about 350 people were arrested during April 1976. The Police Investigation Department—a place noted for the continuing use of barbaric torture was still crowded with many of the 200 people reportedly arrested or disappeared in late November and throughout December 1975. On March 17, 1976, Amnesty International sent a letter to the OAS Inter-American Commission on Human Rights urging an investigation of reports of gross violations of human rights in Paraguay, citing 55 cases of persons arrested and maltreated late last year.

Amnesty International continues to receive repeated allegations of long-standing serious violations of human rights in Cuba, notably numerous cases of imprisonment under subhuman conditions for long periods of time. The Cuban government has still failed to agree to accept any impartial investigations by Amnesty International or other human rights organizations, but we shall continue to press for such an investigation.

Amnesty International does not single out any country or group of countries for criticism. It works for the release of men and women imprisoned anywhere for their beliefs, color, language, ethnic origin or religion, provided they have not used or advocated violence.

PUBLIC WORKS EMPLOYMENT ACT OF 1976

Mr. WILLIAMS. Mr. President, yesterday the Senate approved, by an overwhelming margin, the conference version of S. 3201, the Public Works Employment Act of 1976. As a strong supporter of this bill, I am pleased the Senate has taken affirmative action to meet the needs of unemployed and underemployed Americans. I am confident the House will again demonstrate its commitment to putting Americans back to work and approve this legislation.

The Public Works Employment Act of 1976 provides $2 billion in antirecessionary public works authorization which would go to State and local governments for public works projects. Simply stated, this bill means more jobs for unemployed Americans. It offers hope to hundreds of thousands of the unemployed. At a time when millions are seeking jobs, there exist numerous vital public works projects that need to be undertaken to improve life for everyone. I know a majority of my colleagues agree, expenditures for public works, such as road construction and repair, the construction of public buildings, and transportation and recreation facilities would be far more productive than spending money on unemployment compensation.

The administration has shown that it does not care about putting people back to work, and the country is paying a terrible price for the President's lack of commitment. The national unemployment rate remains at an unacceptable 7.3 percent. The national rate among the construction industry, which is targeted for much of the relief in this bill, is nearly twice that figure. In some areas of my State of New Jersey, the unemployment rate for the construction trade hovers around an intolerable 40 percent. These statistics underscore the need to provide jobs quickly.

Mr. President, the job creating provisions in S. 3201 require urgent approval. The President says we should solve unemployment by stimulating corporate growth and hoping jobs will trickle down to those in need. But complex economic formulas and the promise of jobs at some future date provide little consolation to the unemployed with a family to support. I submit, the best way to attack joblessness is with jobs. S. 3201 provides jobs immediately for those who need them most.

I am particularly pleased to express my full support for the part of this legislation which provides countercyclical, antirecession aid to the States and localities which have been hardest hit by the economic crisis. For a great number of States and local communities, economic recovery is still months away. This legislation would extend badly needed Federal funds to allow them to maintain vital public services.

The recession has forced many State and local governments to face the hard choice of reducing expenditures or raising taxes in order to maintain balanced budgets. Some have been forced to do both. These cutbacks have meant fewer public services, job layoffs, reduced tax revenues and a continuing cycle of recession. It may be almost impossible for some areas to break out of this cycle without the kind of emergency assistance provided under this legislion.

My home State of New Jersey has been forced to cut more than $350 million from a $3.7 billion budget that would have done little more than maintain services at their fiscal 1975 level. Education, health and medical services, and public safety have all felt the weight of these cutbacks.

Of course, the need to maintain public services is not the only problem which this legislation addresses. The Federal Government's efforts to stimulate the economy and to encourage the process of recovery is weakened if the fiscal problems of our State and local governments are permitted to go unrelieved. The Tax Reduction Act of 1975 and the subsequent extension of the tax cuts were among the most important tools that Congress has used to combat the recession. However, if State and local governments must increase their own taxes in order to support a minimum level of services, the beneficial effects of the tax cut are reduced, and the Federal Government's effort to bring about full economic recovery is substantially undermined. We should also note that States and localities are highly dependent on regressive property taxes which are least conducive to economic recovery.

Under the countercyclical antirecession aid part of this legislation the Federal Government would authorize a maximum of $1.375 billion of which New Jersey would receive a sizable share. This amount would be spread over five succeeding calendar quarters to begin with the third quarter of 1976, which begins July 1, 1976. To trigger this assistance, the national unemployment rate must have reached 6 percent during the previous calendar quarter. The size of the payments to be received by the State and local governments would depend on the amount they receive in revenue-sharing funds, and the extent to which the unemployment rate exceeds the national average. Local governments could expect to receive the largest share of antirecessionary payments, as they are allocated the largest portion of revenue sharing funds.

It is essential we mount a direct attack on the problem of unemployment by providing immediate jobs for those

who need them. At the same time we must produce a coordinated, long-term, antirecessionary program. The antirecessionary public works legislation we approved yesterday provides a responsible method of channeling urgently needed financial assistance to areas where recession has jeopardized the delivery of essential public sevices. Furthermore, it enhances the overall Federal effort to provide a stable economic climate.

Mr. President, yesterday's overwhelming approval of S. 3201 has demonstrated again Congress strong commitment to helping the unemployed. The needs of America's jobless require this legislation to become law at the earliest possible date.

SEC PERFORMING A SERVICE TO THE NATION IN ROOTING OUT CORPORATE MISCONDUCT

Mr. PERCY. Mr. President, in a recent letter to our distinguished colleague Senator PROXMIRE, the Secretary of Commerce, Elliot Richardson, criticized recent actions which the SEC has taken against corporations which have made illegal and questionable bribes and payments. In his letter, Mr. Richardson contends that the SEC actions "may be based on tenuous legal grounds."

I am pleased, though not at all surprised, to report that the Chairman of the SEC, Rod Hills, came quickly to his agency's defense in a strongly worded letter to Secretary Richardson. Chairman Hills termed Secretary Richardson's broad criticism of the agency and his vague challenge of the authority under which it has acted "unfounded, inappropriate, and ill-timed."

Mr. Hills expressed the Commission's concern that the Secretary's comments "may cast an ambiguous cloud over our activities."

Chairman Hills, and the entire staff at the SEC, deserve our strong support and praise, for the courageous actions they have taken in investigating illegal corporate bribes and kickbacks both here and abroad. The SEC has been virtually the only executive branch Government agency which has to date shed light into this sordid area, and their activities constitute a valuable public service.

Although I do not know the full background leading to Secretary Richardson's criticisms, it would seem that Chairman Hills was well-justified in suggesting that, before the Secretary went public with his charges, those charges could "have been responsibly raised in discussions directly with me or our staff."

Clearly, as Secretary of Commerce, Mr. Richardson feels an obligation to articulate the views of segments of the business community which are upset, that certain "established" modes of doing business are now being challenged. Perhaps this is the "zeal and militancy" to which he alludes. I would suggest, however, that my own statements before the Business Council, on the Senate floor and during the course of public hearings of the Multi-National Subcommittee of the Foreign Relations Committee as to the grave dangers to democracy and the free enterprise system of continued payoffs, bribes, kickbacks, and submission to extortion, may have sounded zealous and militant to some but have been fully supported by an overwhelming majority of responsible business leaders in America.

In my view, however, the pressures that are undoubtedly being exerted in an election year, should not cause us to ignore the need for integrity in the international marketplace and a higher standard of corporate responsibility. Payoffs, bribes, kickbacks, and the like are indefensible. And to the extent that the SEC is boldly trying to root out these practices—under the glare of public exposure—that Agency and its Chairmen are performing a service for this Nation and for American business. For that, they deserve our gratitude.

Mr. President, I ask unanimous consent that an article from this morning's Washington Post which describes this matter be printed in the RECORD.

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

SEC CRITICISM SPLITS RICHARDSON, HILLS

(By John F. Berry)

Chairman Roderick M. Hills of the Securities and Exchange Commission told Commerce Secretary Elliot L. Richardson yesterday that his recent criticisms of the SEC were "unfounded, inappropriate and ill-timed."

Richardson could not be reached for comment, but an aide predicted the secretary "will want to answer Hills in a conciliatory fashion."

What angered the SEC chairman was a letter on Monday from Richardson to Sen. William Proxmire (D-Wis.) that raised legal doubts about the SEC's recent suits against corporations for illegal and questionable payments.

In laying out the administration's own proposal for legislation to stem foreign payoffs, Richardson had said the SEC's approach "may be based on tenuous legal grounds."

Richardson also rapped the young staff of the SEC enforcement division, which is often under fire from the business community. "There may be virtue in a legislative scheme which does not depend for its viability on the continued zeal or militancy of its administrators," Richardson wrote.

Hills, in his strong reply yesterday, told Richardson, "The commission is concerned that your comments may cast an ambiguous cloud over our activities and that they may be erroneously cited by those who may be the subject of current or future enforcement actions."

He said that Richardson's mention of "zeal or militancy" suggested "an antagonism to prior commission action that could have been responsibly raised in discussion directly with me or our staff."

Hills, who was in Los Angeles on Monday when Richardson's unexpected letter was released and who has since had laryngitis, worked on the letter at home with an aide.

Hills told Richardson, "Your decision ... to broadly criticize the commission and ambiguously challenge the authority under which we have acted is unfounded, inappropriate and ill-timed."

He concluded, "If you believe we are incorrect, we would appreciate a more useful articulation of the problems you perceive."

Over the past two years the SEC has been virtually alone among government agencies in investigating bribes, kickbacks, and questionable and illegal payments both in the United States and abroad. It has sued 17 companies for failing to disclose domestic and foreign payments. In addition, more than 100 companies have voluntarily admitted making such payments.

Proxmire has introduced legislation that would provide criminal penalties for illegal foreign payments. Richardson, in his letter to Proxmire, laid out the administration's milder bill.

Companies that do not report questionable payments could be subject to criminal or civil penalties, but there would be no sanctions against companies that volunteer information about such payments. The State or Commerce departments would be charged with enforcement, and reports of the illegalities would not be made public for "an appropriate interval, such as one year," Richardson wrote.

The legislation proposed by Richardson was drawn up by a task force appointed by President Ford. According to administration sources, Richardson's letter was not reviewed by other task force members. Sources say some members of the force, which includes the Secretaries of State, Treasury and Defense, and the Attorney General, called Hills to apologize for the criticism of his agency in Richardson's letter.

Reportedly the White House opposed submitting any legislation on the payoffs' question. Sources said State and Treasury officials were against anything that might burden businesses and at the same time cause problems with foreign governments.

Richardson reportedly was in favor of legislation, and to support his contention, his staff drafted a strong advocacy statement. Among other things, it claimed that legislation was needed because the SEC was on rocky legal grounds in its various suits. This same point has been raised by some corporate lawyers, although the SEC suits have not been challenged in court.

With Proxmire calling on the administration to state its position, the Richardson letter was quickly drafted. Much of the advocacy statement, prepared by Richardson's staff, was included without editing.

THE ASSASSINATION OF AMBASSADOR MELOY

Mr. PELL. Mr. President, once again members of the Foreign Service who were serving their country abroad bravely and with great distinction have paid for their dedication with their lives. Yesterday, Ambassador Francis Meloy, his economic counselor Robert Waring, and an embassy chauffeur were assassinated in Beirut, Lebanon. Their coldblooded murder in a country beset by a tragic and cruel civil war is yet further evidence that, since the end of the Vietnam war, diplomacy is probably the most dangerous of occupations.

The names of Ambassador Meloy and Mr. Waring will soon take their places on the grim and growing list of Foreign Service personnel who have lost their lives in the line of duty. The marble tablets in the diplomatic lobby of the State Department building on which their names will soon be inscribed serve as reminders of the grave risks which American diplomats and their families run as a normal part of a Foreign Service career.

Since 1968, there have been 37 major acts of violence against Foreign Service personnel abroad, including 11 deaths at the hands of terrorists and 20 kidnappings. Among those killed by political

assassins were four American Ambassadors, the latest victim being Ambassador Meloy.

Ambassador Meloy was an old, good friend of mine and of my wife. He joined the Foreign Service the same time I did. I knew him to be a highly gifted, dedicated, and intelligent man—an example, in fact, of the finest that the Foreign Service has to offer our Nation. All of us who knew and worked with him will miss him greatly.

We live in an age of increasing political violence and violent politics in which assassination, kidnappings, and hijacking are employed in the name of one political cause or another. Yet such acts are senseless, as they cannot change American policy or advance the causes of their perpetrators. In the end, those causes are discredited by the acts of violence carried out in their name. The search for peace in Lebanon has certainly not been furthered by the senseless killing of two Americans who were trying to help in that search.

Mr. President, in this regard, I ask unanimous consent that an editorial which appeared in today's New York Times be printed at this point in the RECORD.

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

[From the New York Times, June 17, 1976]

FALLEN AMBASSADOR

Three senseless deaths were added to the tens of thousands of innocent victims already fallen to marauding civil war in Lebanon: the United States Ambassador, his Economics Counselor and the embassy driver, executed in Beirut by elements unknown.

Ambassador Francis E. Meloy Jr. had been at his post only 35 days. Setting off on his last drive through the rubble of a Beirut no-man's-land, he was about to have his first working encounter with Lebanon's President-elect Elias Sarkis. No rational purpose can explain this act of criminality—only a desperate intent to provoke a great power.

Some day, perhaps, the full story of United States mediation efforts to resolve the Lebanese tragedy will be revealed; for the present it seems clear that all responsible governments of the area—Syria, Israel, the rival leaders of Lebanon itself—have found the American role essential and helpful. Responding to provocation now would only undo what has been accomplished and serve no interests except those of the terrorists. In this awareness, President Ford rightly declared that the United States would "not be deterred from its search for peace," the search in which the Ambassador was himself engaged in his last hour.

The most fitting monument to the memory of Ambassador Meloy and his colleagues will be a truce and a political settlement in which all sides can join to restore Lebanon to the pride and standing of a nation at peace.

INVESTIGATION INTO DEATHS OF AMERICAN CITIZENS IN CHILE

Mr. KENNEDY. Mr. President, 2 days ago, Congressman DANTE FASCELL, chairman of the House Subcommittee on International Political and Military Affairs, and I requested that the State Department investigate new information that a high Chilean military officer ordered the execution of a U.S. citizen, Charles Horman, at the time of the Chilean coup.

In a letter to the Secretary of State, we also urged the Secretary to investigate whether the additional information also applied to the death of another U.S. citizen, Frank Teruggi, Jr. who also was killed after being arrested by Chilean military officials.

We previously had requested and obtained a special GAO study on the adequacy of U.S. Embassy procedures to protect U.S. citizens abroad. The study found serious inadequacies and particularly noted that in Chile after the coup protection of U.S. citizens was hindered by departmental policies. Also, the study noted that even though high level informal discussions occurred, they did not cover the problems of detained Americans. In fact, several Americans received refuge in foreign embassies and in the apartment of a U.S. official, but requests for refuge in the U.S. Embassy and Consulate were not acted upon.

The letter followed news reports of an interview with a Chilean military intelligence officer alleging he was present when a high Chilean military officer ordered the execution of Charles Horman.

I ask unanimous consent that the letter be printed in the RECORD.

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

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., June 10, 1976.

HON. HENRY A. KISSINGER,
The Secretary of State,
U.S. Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Today's Washington Post carries a news report that a former Chilean intelligence officer, now in refuge in the Italian embassy in Santiago, has alleged that Chilean officers, whom he identified, ordered the death of Charles Horman, a U.S. citizen who was killed in the wake of the 1973 Chilean coup.

Our Subcommittees would appreciate your Department's full and prompt investigation into these charges. If the allegations are confirmed we would expect the United States Government to take all appropriate steps to see that those responsible are brought to justice. Please furnish us with a complete report on your findings as expeditiously as possible, consistent with the requirements of a thorough investigation.

Please also advise us of any new information furnished by the Chilean intelligence officer, Mr. Rafael A. Gonzalez Verdugo, or others regarding those responsible for the death of U.S. citizen Frank Teruggi, Jr., during the coup.

In addition, we would appreciate being advised of the status of the application of Mr. Rafael A. Gonzalez Verdugo and his family to come to the United States and of any steps being taken by our government in behalf of the Gonzalez family.

Sincerely,

DANTE B. FASCELL,
Chairman, Subcommittee on International Political and Military Affairs, U.S. House of Representatives.

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees and Escapees, U.S. Senate.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND RESUMING CONSIDERATION OF UNFINISHED BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the two leaders or their designees have been recognized under the standing order on tomorrow there be a period for the transaction of routine morning business, not to extend beyond the hour of 9:30 a.m., with statements limited therein to 5 minutes each, and that at the conclusion of routine morning business the Senate resume consideration of the unfinished business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STONE ON THURSDAY, JUNE 24, 1976

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on next Thursday, Mr. STONE be recognized for not to exceed 15 minutes after the two leaders or their designees have been recognized under the standing order.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m. with statements limited therein to 5 minutes each. At the conclusion of morning business, the Senate will resume consideration of the unfinished business. There will be rollcall votes tomorrow.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order, that the Senate stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 9:25 p.m., the Senate adjourned until tomorrow, June 18, 1976, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 17, 1976:

COMMODITY FUTURES TRADING COMMISSION

Robert L. Martin, of Illinois, to be a Commissioner of the Commodity Futures Trading Commission for the term expiring June 19, 1981.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.